for the automatic surveillance of an ongoing medical condition.

(June 19, 1934, ch. 652, title II, § 275, as added Pub. L. 104–104, title I, § 151(a), Feb. 8, 1996, 110 Stat. 105.)

§ 276. Provision of payphone service

(a) Nondiscrimination safeguards

After the effective date of the rules prescribed pursuant to subsection (b) of this section, any Bell operating company that provides payphone service—

(1) shall not subsidize its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations; and

(2) shall not prefer or discriminate in favor of its payphone service.

(b) Regulations

(1) Contents of regulations

In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, within 9 months after February 8, 1996, the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that—

(A) establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on February 8, 1996, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A);

(C) prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a) of this section, which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90–623) proceeding;

(D) provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry interLATA calls from their payphones, unless the Commission determines in the rulemaking pursuant to this section that it is not in the public interest; and

(E) provide for all payphone service providers to have the right to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry intraLATA calls from their payphones.

(2) Public interest telephones

In the rulemaking conducted pursuant to paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

(3) Existing contracts

Nothing in this section shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of February 8, 1996.

(c) State preemption

To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements.

(d) "Payphone service" defined

As used in this section, the term ''payphone service'' means the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services.

(June 19, 1934, ch. 652, title II, § 276, as added Pub. L. 104–104, title I, § 151(a), Feb. 8, 1996, 10 Stat. 106.)

SUBCHAPTER III—SPECIAL PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

§ 301. License for radio communication or transmission of energy

It is the purpose of this chapter, among other things, to maintain the control of the United States over all the channels of radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority, and no such license shall be construed to create any right, beyond the terms, conditions, and periods of the license. No person shall use or operate any apparatus for the transmission of energy or communications or signals by radio (a) from one place in any State, Territory, or possession of the United States or in the District of Columbia to another place in the same State, Territory, possession, or District; or (b) from any State, Territory, or possession of the United States, or from the District of Columbia to any other State, Territory, or possession of the United States; or (c) from any place in any State, Territory, or possession of the United States, or in the District of Columbia, to any place in any foreign country or to any vessel; or (d) within any State when the effects of such use extend beyond the borders of said State, or when interference is caused by such use or operation with the transmission of such energy, communications, or signals from within said State to any place beyond its bor-

ders, or from any place beyond its borders to any place within said State, or with the transmission or reception of such energy, communications, or signals from and/or to places beyond the borders of said State; or (e) upon any vessel or aircraft of the United States (except as provided in section 303(t) of this title); or (f) upon any other mobile stations within the jurisdiction of the United States, except under and in accordance with this chapter and with a license in that behalf granted under the provisions of this chapter.

(June 19, 1934, ch. 652, title III, § 301, 48 Stat. 1081; Pub. L. 97–259, title I, §§ 107, 111(b), Sept. 13, 1982, 96 Stat. 1091, 1093.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1982—Pub. L. 97–259 struck out ''interstate and foreign'' after ''channels of'' in first sentence, substituted ''State, Territory,'' for ''Territory'' after ''from one place in any'' and inserted ''State,'' after ''to another place in the same'' in cl. (a), and inserted ''(except as provided in section 303(t) of this title)'' in cl. (e).

§ 302. Repealed. June 5, 1936, ch. 511, § 1, 49 Stat. 1475

Section, act June 19, 1934, ch. 652, title III, § 302, 48 Stat. 1081, divided United States into five zones for purposes of this subchapter.

§ 302a. Devices which interfere with radio reception

(a) Regulations

The Commission may, consistent with the public interest, convenience, and necessity, make reasonable regulations (1) governing the interference potential of devices which in their operation are capable of emitting radio frequency energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy. Such regulations shall be applicable to the manufacture, import, sale, offer for sale, or shipment of such devices and home electronic equipment and systems, and to the use of such devices.

(b) Restrictions

No person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.

(c) Exceptions

The provisions of this section shall not be applicable to carriers transporting such devices or home electronic equipment and systems without trading in them, to devices or home electronic equipment and systems manufactured solely for export, to the manufacture, assembly, or installation of devices or home electronic equipment and systems for its own use by a public utility engaged in providing electric service, or to devices or home electronic equipment and systems for use by the Government of the United States or any agency thereof. Devices and home electronic equipment and systems for use by the Government of the United States or any agency thereof shall be developed, procured, or otherwise acquired, including offshore procurement, under United States Government criteria, standards, or specifications designed to achieve the objectives of reducing interference to radio reception and to home electronic equipment and systems, taking into account the unique needs of national defense and security.

(d) Cellular telecommunications receivers

(1) Within 180 days after October 28, 1992, the Commission shall prescribe and make effective regulations denying equipment authorization (under part 15 of title 47, Code of Federal Regulations, or any other part of that title) for any scanning receiver that is capable of—

(A) receiving transmissions in the frequencies allocated to the domestic cellular radio telecommunications service,

(B) readily being altered by the user to receive transmissions in such frequencies, or

(C) being equipped with decoders that convert digital cellular transmissions to analog voice audio.

(2) Beginning 1 year after the effective date of the regulations adopted pursuant to paragraph (1), no receiver having the capabilities described in subparagraph (A), (B), or (C) of paragraph (1), as such capabilities are defined in such regulations, shall be manufactured in the United States or imported for use in the United States.

(e) Delegation of equipment testing and certification to private laboratories

The Commission may—

(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

(2) accept as prima facie evidence of such compliance the certification by any such organization; and

(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.

(f) State and local enforcement of FCC regulations on use of citizens band radio equipment

(1) Except as provided in paragraph (2), a State or local government may enact a statute or ordinance that prohibits a violation of the following regulations of the Commission under this section:

(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

(2) A station that is licensed by the Commission pursuant to section 301 of this title in any

radio service for the operation at issue shall not be subject to action by a State or local government under this subsection. A State or local government statute or ordinance enacted for purposes of this subsection shall identify the exemption available under this paragraph.

(3) The Commission shall, to the extent practicable, provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government agency enforcing a statute or ordinance under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, enacted a statute or ordinance outside the authority provided in this subsection.

(B) A person shall submit an appeal on a decision of a State or local government agency to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government agency becomes final, but prior to seeking judicial review of such decision.

(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

(D) If the Commission determines under subparagraph (C) that a State or local government agency has acted outside its authority in enforcing a statute or ordinance, the Commission shall preempt the decision enforcing the statute or ordinance.

(5) The enforcement of statute or ordinance that prohibits a violation of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.

(7) The enforcement of a statute or ordinance by a State or local government under paragraph (1) with regard to citizens band radio equipment on board a ''commercial motor vehicle'', as defined in section 31101 of title 49, shall require probable cause to find that the commercial motor vehicle or the individual operating the vehicle is in violation of the regulations described in paragraph (1).

(June 19, 1934, ch. 652, title III, § 302, as added Pub. L. 90–379, July 5, 1968, 82 Stat. 290; amended Pub. L. 97–259, title I, § 108(a), Sept. 13, 1982, 96 Stat. 1091; Pub. L. 102–556, title IV, § 403(a), Oct. 28, 1992, 106 Stat. 4195; Pub. L. 104–104, title IV, § 403(f), Feb. 8, 1996, 110 Stat. 131; Pub. L. 106–521, § 1, Nov. 22, 2000, 114 Stat. 2438.)

AMENDMENTS

2000—Subsec. (f). Pub. L. 106–521 added subsec. (f).

1996—Subsec. (e). Pub. L. 104–104 added subsec. (e).

1992—Subsec. (d). Pub. L. 102–556 added subsec. (d).

1982—Subsec. (a). Pub. L. 97–259, § 108(a)(1), (2), inserted ''(1)'' after ''regulations'' and ''; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy'' after ''radio communications'', and substituted ''or shipment of such devices and home electronic equipment and systems, and to the use of such devices'' for ''shipment, or use of such devices''.

Subsec. (b). Pub. L. 97–259, § 108(a)(3), substituted ''or ship devices or home electronic equipment and systems, or use devices,'' for ''ship, or use devices''.

Subsec. (c). Pub. L. 97–259, § 108(a)(4), inserted ''or home electronic equipment and systems'' after ''devices'' wherever appearing, inserted ''and home electronic equipment and systems'' after ''Devices'', substituted ''objectives'' for ''common objective'', and inserted ''and to home electronic equipment and systems'' after ''reception''.

EFFECT ON OTHER LAWS

Section 403(c) of Pub. L. 102–556 provided that: ''This section [amending this section] shall not affect section 2512(2) of title 18, United States Code.''

MINIMUM PERFORMANCE STANDARDS; HOME ELECTRONIC EQUIPMENT AND SYSTEMS MANUFACTURED BEFORE SEPTEMBER 13, 1982

Section 108(b) of Pub. L. 97–259 provided that: ''Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934 [subsec. (a)(2) of this section], as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act [Sept. 13, 1982].''

§ 303. Powers and duties of Commission

Except as otherwise provided in this chapter, the Commission from time to time, as public convenience, interest, or necessity requires, shall—

(a) Classify radio stations;

(b) Prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class;

(c) Assign bands of frequencies to the various classes of stations, and assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate;

(d) Determine the location of classes of stations or individual stations;

(e) Regulate the kind of apparatus to be used with respect to its external effects and the purity and sharpness of the emissions from each station and from the apparatus therein;

(f) Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this chapter: *Provided, however*, That changes in the frequencies, authorized power, or in the times of operation of any station, shall not be made without the consent of the station licensee unless the Commission shall determine that such changes will promote public convenience or interest or will serve public necessity, or the provisions of this chapter will be more fully complied with;

(g) Study new uses for radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest;

(h) Have authority to establish areas or zones to be served by any station;

(i) Have authority to make special regulations applicable to radio stations engaged in chain broadcasting;

(j) Have authority to make general rules and regulations requiring stations to keep such records of programs, transmissions of energy, communications, or signals as it may deem desirable;

(k) Have authority to exclude from the requirements of any regulations in whole or in part any radio station upon railroad rolling stock, or to modify such regulations in its discretion;

(*l*)(1) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States, except that such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States;

(2) Notwithstanding paragraph (1) of this subsection, an individual to whom a radio station is licensed under the provisions of this chapter may be issued an operator's license to operate that station.

(3) In addition to amateur operator licenses which the Commission may issue to aliens pursuant to paragraph (2) of this subsection, and notwithstanding section 301 of this title and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a multilateral or bilateral agreement, to which the United States and the alien's government are parties, for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this chapter and of subchapter II of chapter 5, and chapter 7, of title 5 shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(m)(1) Have authority to suspend the license of any operator upon proof sufficient to satisfy the Commission that the licensee—

(A) has violated, or caused, aided, or abetted the violation of, any provision of any Act, treaty, or convention binding on the United States, which the Commission is authorized to administer, or any regulation made by the Commission under any such Act, treaty, or convention; or

(B) has failed to carry out a lawful order of the master or person lawfully in charge of the ship or aircraft on which he is employed; or

(C) has willfully damaged or permitted radio apparatus or installations to be damaged; or

(D) has transmitted superfluous radio communications or signals or communications containing profane or obscene words, language, or meaning, or has knowingly transmitted—

(1) false or deceptive signals or communications, or

(2) a call signal or letter which has not been assigned by proper authority to the station he is operating; or

(E) has willfully or maliciously interfered with any other radio communications or signals; or

(F) has obtained or attempted to obtain, or has assisted another to obtain or attempt to obtain, an operator's license by fraudulent means.

(2) No order of suspension of any operator's license shall take effect until fifteen days' notice in writing thereof, stating the cause for the proposed suspension, has been given to the operator licensee who may make written application to the Commission at any time within said fifteen days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have fifteen days in which to mail the said application. In the event that physical conditions prevent mailing of the application at the expiration of the fifteen-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be held in abeyance until the conclusion of the hearing which shall be conducted under such rules as the Commission may prescribe. Upon the conclusion of said hearing the Commission may affirm, modify, or revoke said order of suspension.

(n) Have authority to inspect all radio installations associated with stations required to be licensed by any Act, or which the Commission by rule has authorized to operate without a license under section 307(e)(1) of this title, or which are subject to the provisions of any Act, treaty, or convention binding on the United States, to ascertain whether in construction, installation, and operation they conform to the requirements of the rules and regulations of the Commission, the provisions of any Act, the terms of any treaty or convention binding on the United States, and the conditions of the license or other instrument of authorization under which they are constructed, installed, or operated.

(*o*) Have authority to designate call letters of all stations;

(p) Have authority to cause to be published such call letters and such other announcements and data as in the judgment of the Commission may be required for the efficient operation of radio stations subject to the jurisdiction of the United States and for the proper enforcement of this chapter;

(q) Have authority to require the painting and/or illumination of radio towers if and when in its judgment such towers constitute, or there is a reasonable possibility that they may constitute, a menace to air navigation. The permittee or licensee, and the tower owner in any case in which the owner is not the permittee or li-

censee, shall maintain the painting and/or illumination of the tower as prescribed by the Commission pursuant to this section. In the event that the tower ceases to be licensed by the Commission for the transmission of radio energy, the owner of the tower shall maintain the prescribed painting and/or illumination of such tower until it is dismantled, and the Commission may require the owner to dismantle and remove the tower when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that it may constitute a menace to air navigation.

(r) Make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this chapter, or any international radio or wire communications treaty or convention, or regulations annexed thereto, including any treaty or convention insofar as it relates to the use of radio, to which the United States is or may hereafter become a party.

(s) Have authority to require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting when such apparatus is shipped in interstate commerce, or is imported from any foreign country into the United States, for sale or resale to the public.

(t) Notwithstanding the provisions of section 301(e) of this title, have authority, in any case in which an aircraft registered in the United States is operated (pursuant to a lease, charter, or similar arrangement) by an aircraft operator who is subject to regulation by the government of a foreign nation, to enter into an agreement with such government under which the Commission shall recognize and accept any radio station licenses and radio operator licenses issued by such government with respect to such aircraft.

(u) Require that, if technically feasible—

(1) apparatus designed to receive or play back video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States and uses a picture screen of any size—

(A) be equipped with built-in closed caption decoder circuitry or capability designed to display closed-captioned video programming;

(B) have the capability to decode and make available the transmission and delivery of video description services as required by regulations reinstated and modified pursuant to section 613(f) of this title; and

(C) have the capability to decode and make available emergency information (as that term is defined in section 79.2 of the Commission's regulations (47 CFR 79.2)) in a manner that is accessible to individuals who are blind or visually impaired; and

(2) notwithstanding paragraph (1) of this subsection—

(A) apparatus described in such paragraph that use a picture screen that is less than 13 inches in size meet the requirements of subparagraph (A), (B), or (C) of such paragraph only if the requirements of such subparagraphs are achievable (as defined in section 617 of this title);

(B) any apparatus or class of apparatus that are display-only video monitors with no playback capability are exempt from the requirements of such paragraph; and

(C) the Commission shall have the authority, on its own motion or in response to a petition by a manufacturer, to waive the requirements of this subsection for any apparatus or class of apparatus—

(i) primarily designed for activities other than receiving or playing back video programming transmitted simultaneously with sound; or

(ii) for equipment designed for multiple purposes, capable of receiving or playing video programming transmitted simultaneously with sound but whose essential utility is derived from other purposes.

(v) Have exclusive jurisdiction to regulate the provision of direct-to-home satellite services. As used in this subsection, the term ''direct-to-home satellite services'' means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

(w) Omitted.

(x) Require, in the case of an apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus be equipped with a feature designed to enable viewers to block display of all programs with a common rating, except as otherwise permitted by regulations pursuant to section 330(c)(4) of this title.

(y) Have authority to allocate electromagnetic spectrum so as to provide flexibility of use, if—

(1) such use is consistent with international agreements to which the United States is a party; and

(2) the Commission finds, after notice and an opportunity for public comment, that—

(A) such an allocation would be in the public interest;

(B) such use would not deter investment in communications services and systems, or technology development; and

(C) such use would not result in harmful interference among users.

(z) Require that—

(1) if achievable (as defined in section 617 of this title), apparatus designed to record video programming transmitted simultaneously with sound, if such apparatus is manufactured in the United States or imported for use in the United States, enable the rendering or the pass through of closed captions, video description signals, and emergency information (as that term is defined in section 79.2 of title 47, Code of Federal Regulations) such that viewers are able to activate and de-activate the closed captions and video description as the video programming is played back on a picture screen of any size; and

(2) interconnection mechanisms and standards for digital video source devices are available to carry from the source device to the consumer equipment the information necessary to permit or render the display of closed captions and to make encoded video description and emergency information audible.

(aa) Require—

(1) if achievable (as defined in section 617 of this title) that digital apparatus designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, be designed, developed, and fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who are blind or visually impaired, except that the Commission may not specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement;

(2) that if on-screen text menus or other visual indicators built in to the digital apparatus are used to access the functions of the apparatus described in paragraph (1), such functions shall be accompanied by audio output that is either integrated or peripheral to the apparatus, so that such menus or indicators are accessible to and usable by individuals who are blind or visually impaired in real-time;

(3) that for such apparatus equipped with the functions described in paragraphs (1) and (2) built in access to those closed captioning and video description features through a mechanism that is reasonably comparable to a button, key, or icon designated for activating the closed captioning or accessibility features; and

(4) that in applying this subsection the term ''apparatus'' does not include a navigation device, as such term is defined in section 76.1200 of the Commission's rules (47 CFR 76.1200).

(bb) Require—

(1) if achievable (as defined in section 617 of this title), that the on-screen text menus and guides provided by navigation devices (as such term is defined in section 76.1200 of title 47, Code of Federal Regulations) for the display or selection of multichannel video programming are audibly accessible in real-time upon request by individuals who are blind or visually impaired, except that the Commission may not specify the technical standards, protocols, procedures, and other technical requirements for meeting this requirement;

(2) for navigation devices with built-in closed captioning capability, that access to that capability through a mechanism is reasonably comparable to a button, key, or icon designated for activating the closed captioning, or accessibility features; and

(3) that, with respect to navigation device features and functions—

(A) delivered in software, the requirements set forth in this subsection shall apply to the manufacturer of such software; and

(B) delivered in hardware, the requirements set forth in this subsection shall apply to the manufacturer of such hardware.

(June 19, 1934, ch. 652, title III, §303, 48 Stat. 1082; May 20, 1937, ch. 229, §§5, 6, 50 Stat. 190, 191; Pub. L. 85–817, §1, Aug. 28, 1958, 72 Stat. 981; Pub. L. 87–445, Apr. 27, 1962, 76 Stat. 64; Pub. L. 87–529, §1, July 10, 1962, 76 Stat. 150; Pub. L. 88–313, §1, May 28, 1964, 78 Stat. 202; Pub. L. 88–487, §2, Aug. 22, 1964, 78 Stat. 602; Pub. L. 89–268, Oct. 19, 1965, 79 Stat. 990; Pub. L. 92–81, §1, Aug. 10, 1971, 85 Stat. 302; Pub. L. 93–505, §1, Nov. 30, 1974, 88 Stat. 1576; Pub. L. 97–259, title I, §§109–111(a), 113(b), Sept. 13, 1982, 96 Stat. 1092, 1093; Pub. L. 101–396, §8(a), Sept. 28, 1990, 104 Stat. 850; Pub. L. 101–431, §3, Oct. 15, 1990, 104 Stat. 960; Pub. L. 102–538, title II, §210(a), Oct. 27, 1992, 106 Stat. 3544; Pub. L. 104–104, title II, §205(b), title IV, §403(g), title V, §551(b)(1), (c), Feb. 8, 1996, 110 Stat. 114, 131, 140, 141; Pub. L. 105–33, title III, §3005, Aug. 5, 1997, 111 Stat. 268; Pub. L. 111–260, title II, §§203(a), (b), 204(a), 205(a), Oct. 8, 2010, 124 Stat. 2772–2774; Pub. L. 111–265, §2(12)–(15), Oct. 8, 2010, 124 Stat. 2796.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

Enactment of subsec. (w) by Pub. L. 104–104, §551(b)(1), did not become effective pursuant to Pub. L. 104–104, §551(e)(1), because the Federal Communications Commission on Mar. 12, 1998, adopted an order finding acceptable the video programming rating system currently in voluntary use. See 1996 Amendment note and Effective Date of 1996 Amendment note below.

In subsec. (*l*)(3), ''subchapter II of chapter 5, and chapter 7, of title 5'' substituted for ''the Administrative Procedure Act'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2010—Subsec. (u). Pub. L. 111–260, §203(a), amended subsec. (u) generally. Prior to amendment, subsec. (u) read as follows: ''Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size.''

Subsec. (z). Pub. L. 111–260, §203(b), added subsec. (z).

Subsec. (aa). Pub. L. 111–260, §204(a), added subsec. (aa).

Subsec. (aa)(3). Pub. L. 111–265, §2(12), substituted ''for activating'' for ''by activating''.

Subsec. (bb). Pub. L. 111–265, §2(15), struck out concluding provisions which read as follows: ''With respect to apparatus features and functions delivered in software, the requirements set forth in this subsection shall apply to the manufacturer of such software. With respect to apparatus features and functions delivered in hardware, the requirements set forth in this subsection shall apply to the manufacturer of such hardware.''

Pub. L. 111–260, §205(a), added subsec. (bb).

Subsec. (bb)(3). Pub. L. 111–265, §2(13)–(15), added par. (3).

1997—Subsec. (y). Pub. L. 105–33 added subsec. (y).

1996—Subsec. (f). Pub. L. 104–104, §403(g), struck out '', after a public hearing,'' after ''unless''.

Subsec. (v). Pub. L. 104–104, §205(b), added subsec. (v).

Subsec. (w). Pub. L. 104–104, § 551(b)(1), which did not become effective, directed the insertion of subsec. (w) reading as follows: ''Prescribe—

''(1) on the basis of recommendations from an advisory committee established by the Commission in accordance with section 551(b)(2) of the Telecommunications Act of 1996, guidelines and recommended procedures for the identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children: *Provided*, That nothing in this paragraph shall be construed to authorize any rating of video programming on the basis of its political or religious content; and

''(2) with respect to any video programming that has been rated, and in consultation with the television industry, rules requiring distributors of such video programming to transmit such rating to permit parents to block the display of video programming that they have determined is inappropriate for their children.''

See Codification note above and Effective Date of 1996 Amendment note below.

Subsec. (x). Pub. L. 104–104, § 551(c), added subsec. (x).

1992—Subsec. (q). Pub. L. 102–538 inserted '', and the tower owner in any case in which the owner is not the permittee or licensee,'' after ''permittee or licensee''.

1990—Subsec. (*l*)(3). Pub. L. 101–396 substituted ''multilateral or bilateral agreement, to which the United States and the alien's government are parties,'' for ''bilateral agreement between the United States and the alien's government''.

Subsec. (u). Pub. L. 101–431 added subsec. (u).

1982—Subsec. (*l*)(1). Pub. L. 97–259, § 109, substituted ''persons who are found to be qualified by the commission and who otherwise are legally eligible for employment in the United States'' for ''such citizens or nationals of the United States, or citizens of the Trust Territory of the Pacific Islands presenting valid identity certificates issued by the High Commissioner of such Territory, as the Commission finds qualified'', and substituted provision that the requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States for provision that in issuing licenses for the operation of radio stations on aircraft the Commission, if it found that the public interest would be served thereby, could waive the requirement of citizenship in the case of persons holding United States pilot certificates or in the case of persons holding foreign aircraft pilot certificates which were valid in the United States on the basis of reciprocal agreements entered into with foreign governments.

Subsec. (m)(1)(A). Pub. L. 97–259, § 110, inserted '', or caused, aided, or abetted the violation of,'' after ''violated''.

Subsec. (n). Pub. L. 97–259, § 113(b), inserted '', or which the Commission by rule has authorized to operate without a license under section 307(e)(1) of this title,'' after ''licensed by any Act''.

Subsec. (t). Pub. L. 97–259, § 111(a), added subsec. (t).

1974—Subsec. (*l*)(2). Pub. L. 93–505 substituted provisions relating to issuance, notwithstanding par. (1) of this subsection, to an individual to whom a radio station is licensed under this chapter of an operator's license to operate that station, for provisions relating to issuance by the Commission of authorizations, under terms and conditions, for aliens licensed as amateur radio operators by their governments to operate in the United States, possessions, and Puerto Rico upon meeting specified preconditions.

Subsec. (*l*)(3). Pub. L. 93–505 substituted provisions relating to issuance of authorizations for aliens licensed by their governments as amateur radio operators to operate their radio stations in the United States, possessions, and Puerto Rico, under terms and conditions prescribed by the Commission and upon meeting specified preconditions, for provisions relating to issuance of licenses by the Commission, notwithstanding par. (1) of this subsection, to aliens admitted to the United States as permanent residents.

1971—Subsec. (*l*)(3). Pub. L. 92–81 added par. (3).

1965—Subsec. (q). Pub. L. 89–268 required abandoned or unused radio towers to continue to meet the same painting and lighting requirements that would be applicable if such towers were being used in connection with transmission of radio energy pursuant to a license issued by the Commission and authorized the Commission to direct dismantlement of such towers when the Administrator of the Federal Aviation Agency determines that there is a reasonable possibility that they may constitute a menace to air navigation.

1964—Subsec. (*l*). Pub. L. 88–487 inserted ''or citizens of the Trust Territory of the Pacific Islands presenting valid identity certificates issued by the High Commissioner of such Territory''.

Pub. L. 88–313 designated existing provisions of subsec. (*l*) as par. (1), and added par. (2).

1962—Subsec. (*l*). Pub. L. 87–445 inserted ''or nationals'' after ''citizens''.

Subsec. (s). Pub. L. 87–529 added subsec. (s).

1958—Subsec. (*l*). Pub. L. 85–817 authorized Commission to waive citizenship requirement in issuing licenses for operation of radio stations on aircraft.

1937—Subsecs. (m), (n). Act May 20, 1937, §§ 5, 6(a), amended subsecs. (m) and (n) generally.

Subsec. (r). Act May 20, 1937, § 6(b), added subsec. (r).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 551(e) of Pub. L. 104–104 provided that:

''(1) APPLICABILITY OF RATING PROVISION.—The amendment made by subsection (b) of this section [amending this section] shall take effect 1 year after the date of enactment of this Act [Feb. 8, 1996], but only if the Commission determines [see Codification note above], in consultation with appropriate public interest groups and interested individuals from the private sector, that distributors of video programming have not, by such date—

''(A) established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are acceptable to the Commission; and

''(B) agreed voluntarily to broadcast signals that contain ratings of such programming.

''(2) EFFECTIVE DATE OF MANUFACTURING PROVISION.—In prescribing regulations to implement the amendment made by subsection (c) [amending this section], the Federal Communications Commission shall, after consultation with the television manufacturing industry, specify the effective date for the applicability of the requirement to the apparatus covered by such amendment, which date shall not be less than two years after the date of enactment of this Act [Feb. 8, 1996].'' [On Mar. 12, 1998, the Federal Communications Commission adopted technical rules that require certain television receivers to be equipped with features to block display of programs with a common rating. This feature was to be phased in, with half of subject television receivers to have it by July 1, 1999, and all such models to have it by Jan. 1, 2000.]

EFFECTIVE DATE OF 1992 AMENDMENT

Section 210(c) of Pub. L. 102–538 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect 30 days after the date of enactment of this Act [Oct. 27, 1992].''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5 of Pub. L. 101–431 provided that: ''Sections 3 and 4 of this Act [amending this section and section 330 of this title] shall take effect on July 1, 1993.''

REGULATIONS

Pub. L. 111–260, title II, §203(d), (e), Oct. 8, 2010, 124 Stat. 2773, provided that:

''(d) IMPLEMENTING REGULATIONS.—The Federal Communications Commission shall prescribe such regulations as are necessary to implement the requirements of sections 303(u), 303(z), and 330(b) of the Communications Act of 1934 [47 U.S.C. 303(u), (z), 330(b)], as amended by this section, including any technical standards, protocols, and procedures needed for the transmission of—

''(1) closed captioning within 6 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(1) [47 U.S.C. 613 note]; and

''(2) video description and emergency information within 18 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2) [47 U.S.C. 613 note].

''(e) ALTERNATE MEANS OF COMPLIANCE.—An entity may meet the requirements of sections 303(u), 303(z), and 330(b) of the Communications Act of 1934 through alternate means than those prescribed by regulations pursuant to subsection (d) if the requirements of those sections are met, as determined by the Commission.''

[For definitions of terms used in section 203(d), (e) of Pub. L. 111–260, set out above, see section 206 of Pub. L. 111–260, set out as a note under section 153 of this title.]

Pub. L. 111–260, title II, §204(b)–(d), Oct. 8, 2010, 124 Stat. 2774, provided that:

''(b) IMPLEMENTING REGULATIONS.—Within 18 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2) [47 U.S.C. 613 note], the Commission shall prescribe such regulations as are necessary to implement the amendments made by subsection (a) [amending this section].

''(c) ALTERNATE MEANS OF COMPLIANCE.—An entity may meet the requirements of section 303(aa) of the Communications Act of 1934 [47 U.S.C. 303(aa)] through alternate means than those prescribed by regulations pursuant to subsection (b) if the requirements of those sections are met, as determined by the Commission.

''(d) DEFERRAL OF COMPLIANCE WITH ATSC MOBILE DTV STANDARD A/153.—A digital apparatus designed and manufactured to receive or play back the Advanced Television Systems Committee's Mobile DTV Standards A/153 shall not be required to meet the requirements of the regulations prescribed under subsection (b) for a period of not less than 24 months after the date on which the final regulations are published in the Federal Register.''

[For definitions of terms used in section 204(b)–(d) of Pub. L. 111–260, set out above, see section 206 of Pub. L. 111–260, set out as a note under section 153 of this title.]

Pub. L. 111–260, title II, §205(b), Oct. 8, 2010, 124 Stat. 2775, provided that:

''(1) IN GENERAL.—Within 18 months after the submission to the Commission of the Advisory Committee report required by section 201(e)(2) [47 U.S.C. 613 note], the Commission shall prescribe such regulations as are necessary to implement the amendment made by subsection (a) [amending this section].

''(2) EXEMPTION.—Such regulations may provide an exemption from the regulations for cable systems serving 20,000 or fewer subscribers.

''(3) RESPONSIBILITY.—An entity shall only be responsible for compliance with the requirements added by this section with respect to navigation devices that it provides to a requesting blind or visually impaired individual.

''(4) SEPARATE EQUIPMENT OR SOFTWARE.—

''(A) IN GENERAL.—Such regulations shall permit but not require the entity providing the navigation device to the requesting blind or visually impaired individual to comply with section 303(bb)(1) of the Communications Act of 1934 [47 U.S.C. 303(bb)(1)] through that entity's use of software, a peripheral device, specialized consumer premises equipment, a network-based service or other solution, and shall provide the maximum flexibility to select the manner of compliance.

''(B) REQUIREMENTS.—If an entity complies with section 303(bb)(1) of the Communications Act of 1934 under subparagraph (A), the entity providing the navigation device to the requesting blind or visually impaired individual shall provide any such software, peripheral device, equipment, service, or solution at no additional charge and within a reasonable time to such individual and shall ensure that such software, device, equipment, service, or solution provides the access required by such regulations.

''(5) USER CONTROLS FOR CLOSED CAPTIONING.—Such regulations shall permit the entity providing the navigation device maximum flexibility in the selection of means for compliance with section 303(bb)(2) of the Communications Act of 1934 [47 U.S.C. 303(bb)(2)] (as added by subsection (a) of this section).

''(6) PHASE-IN.—

''(A) IN GENERAL.—The Commission shall provide affected entities with—

''(i) not less than 2 years after the adoption of such regulations to begin placing in service devices that comply with the requirements of section 303(bb)(2) of the Communications Act of 1934 (as added by subsection (a) of this section); and

''(ii) not less than 3 years after the adoption of such regulations to begin placing in service devices that comply with the requirements of section 303(bb)(1) of the Communications Act of 1934 (as added by subsection (a) of this section).

''(B) APPLICATION.—Such regulations shall apply only to devices manufactured or imported on or after the respective effective dates established in subparagraph (A).''

[For definitions of terms used in section 205(b) of Pub. L. 111–260, set out above, see section 206 of Pub. L. 111–260, set out as a note under section 153 of this title.]

Section 6 of Pub. L. 101–431 provided that: ''The Federal Communications Commission shall promulgate rules to implement this Act [amending this section and section 330 of this title and enacting provisions set out as notes under this section and section 609 of this title] within 180 days after the date of its enactment [Oct. 15, 1990].''

Pub. L. 100–459, title VI, §608, Oct. 1, 1988, 102 Stat. 2228, directed Federal Communications Commission to promulgate, by Jan. 31, 1989, regulations in accordance with section 1464 of Title 18, Crimes and Criminal Procedure, to enforce the provisions of such section on a 24 hour per day basis, prior to repeal by Pub. L. 102–356, §16(b), Aug. 26, 1992, 106 Stat. 954.

LOCAL COMMUNITY RADIO

Pub. L. 111–371, Jan. 4, 2011, 124 Stat. 4072, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Local Community Radio Act of 2010'.

''SEC. 2. AMENDMENT.

''Section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (Public Law 106–553; 114 Stat. 2762A–111), is amended to read as follows:

'''Sec. 632. (a) The Federal Communications Commission shall modify the rules authorizing the operation of low-power FM radio stations, as proposed in MM Docket No. 99–25, to—

'''(1) prescribe protection for co-channels and first- and second-adjacent channels; and

'''(2) prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934 (47 U.S.C. 301).

'''(b) Any license that was issued by the Federal Communications Commission to a low-power FM station prior to April 2, 2001, and that does not comply

with the modifications adopted by the Commission in MM Docket No. 99–25 on April 2, 2001, shall remain invalid.'

''SEC. 3. MINIMUM DISTANCE SEPARATION REQUIREMENTS.

''(a) IN GENERAL.—The Federal Communications Commission shall modify its rules to eliminate third-adjacent minimum distance separation requirements between—

''(1) low-power FM stations; and

''(2) full-service FM stations, FM translator stations, and FM booster stations.

''(b) RESTRICTION.—

''(1) IN GENERAL.—The Federal Communications Commission shall not amend its rules to reduce the minimum co-channel and first- and second-adjacent channel distance separation requirements in effect on the date of enactment of this Act [Jan. 4, 2011] between—

''(A) low-power FM stations; and

''(B) full-service FM stations.

''(2) WAIVER.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Federal Communications Commission may grant a waiver of the second-adjacent channel distance separation requirement to low-power FM stations that establish, using methods of predicting interference taking into account all relevant factors, including terrain-sensitive propagation models, that their proposed operations will not result in interference to any authorized radio service.

''(B) REQUIREMENTS.—

''(i) SUSPENSION.—Any low-power FM station that receives a waiver under subparagraph (A) shall be required to suspend operation immediately upon notification by the Federal Communications Commission that it is causing interference to the reception of an existing or modified full-service FM station without regard to the location of the station receiving interference.

''(ii) ELIMINATION OF INTERFERENCE.—A low-power FM station described in clause (i) shall not resume operation until such interference has been eliminated or it can demonstrate to the Federal Communications Commission that the interference was not due to emissions from the low-power FM station, except that such station may make short test transmissions during the period of suspended operation to check the efficacy of remedial measures.

''(iii) NOTIFICATION.—Upon receipt of a complaint of interference from a low-power FM station operating pursuant to a waiver authorized under subparagraph (A), the Federal Communications Commission shall notify the identified low-power FM station by telephone or other electronic communication within 1 business day.

''SEC. 4. PROTECTION OF RADIO READING SERVICES.

''The Federal Communications Commission shall comply with its existing minimum distance separation requirements for full-service FM stations, FM translator stations, and FM booster stations that broadcast radio reading services via an analog subcarrier frequency to avoid potential interference by low-power FM stations.

''SEC. 5. ENSURING AVAILABILITY OF SPECTRUM FOR LOW-POWER FM STATIONS.

''The Federal Communications Commission, when licensing new FM translator stations, FM booster stations, and low-power FM stations, shall ensure that—

''(1) licenses are available to FM translator stations, FM booster stations, and low-power FM stations;

''(2) such decisions are made based on the needs of the local community; and

''(3) FM translator stations, FM booster stations, and low-power FM stations remain equal in status and secondary to existing and modified full-service FM stations.

''SEC. 6. PROTECTION OF TRANSLATOR INPUT SIGNALS.

''The Federal Communications Commission shall modify its rules to address the potential for predicted interference to FM translator input signals on third-adjacent channels set forth in section 2.7 of the technical report entitled 'Experimental Measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations, Volume One—Final Report (May 2003)'.

''SEC. 7. ENSURING EFFECTIVE REMEDIATION OF INTERFERENCE.

''The Federal Communications Commission shall modify the interference complaint process described in section 73.810 of its rules (47 CFR 73.810) as follows:

''(1) With respect to those low-power FM stations licensed at locations that do not satisfy third-adjacent channel spacing requirements under section 73.807 of the Commission's rules (47 CFR 73.807), the Federal Communications Commission shall provide the same interference protections that FM translator stations and FM booster stations are required to provide as set forth in section 74.1203 of its rules (47 CFR 74.1203) as in effect on the date of enactment of this Act.

''(2) For a period of 1 year after a new low-power FM station is constructed on a third-adjacent channel, such low-power FM station shall be required to broadcast periodic announcements that alert listeners that interference that they may be experiencing could be the result of the operation of such low-power FM station on a third-adjacent channel and shall instruct affected listeners to contact such low-power FM station to report any interference. The Federal Communications Commission shall require all newly constructed low-power FM stations on third-adjacent channels to—

''(A) notify the Federal Communications Commission and all affected stations on third-adjacent channels of an interference complaint by electronic communication within 48 hours after the receipt of such complaint; and

''(B) cooperate in addressing any such interference.

''(3) Low-power FM stations on third-adjacent channels shall be required to address complaints of interference within the protected contour of an affected station and shall be encouraged to address all other interference complaints, including complaints to the Federal Communications Commission based on interference to a full-service FM station, an FM translator station, or an FM booster station by the transmitter site of a low-power FM station on a third-adjacent channel at any distance from the full-service FM station, FM translator station, or FM booster station. The Federal Communications Commission shall provide notice to the licensee of a low-power FM station of the existence of such interference within 7 calendar days of the receipt of a complaint from a listener or another station.

''(4) To the extent possible, the Federal Communications Commission shall grant low-power FM stations on third-adjacent channels the technical flexibility to remediate interference through the colocation of the transmission facilities of the low-power FM station and any stations on third-adjacent channels.

''(5) The Federal Communications Commission shall—

''(A) permit the submission of informal evidence of interference, including any engineering analysis that an affected station may commission;

''(B) accept complaints based on interference to a full-service FM station, FM translator station, or FM booster station by the transmitter site of a low-power FM station on a third-adjacent channel at any distance from the full-service FM station, FM translator station, or FM booster station; and

''(C) accept complaints of interference to mobile reception.

''(6) The Federal Communications Commission shall for full-service FM stations that are licensed in significantly populated States with more than 3,000,000 population and a population density greater than 1,000 people per one square mile land area, require all low-power FM stations licensed after the date of enactment of this Act and located on third-adjacent, second-adjacent, first-adjacent, or co-channels to such full-service FM stations, to provide the same interference remediation requirements to complaints of interference, without regard to whether such complaints of interference occur within or outside of the protected contour of such stations, under the same interference complaint and remediation procedures that FM translator stations and FM booster stations are required to provide to full-service stations as set forth in section 74.1203 of its rules (47 CFR 74.1203) as in effect on the date of enactment of this Act. Notwithstanding the provisions of section 74.1203, no interference that arises outside the relevant distance for the full-service station class specified in the first column titled 'required' for 'Co-channel minimum separation (km)' in the table listed in section 73.807(a)(1) of the Commission's rules (47 CFR 73.807(a)(1)) shall require remediation.

''SEC. 8. FCC STUDY ON IMPACT OF LOW-POWER FM STATIONS ON FULL-SERVICE COMMERCIAL FM STATIONS.

''(a) IN GENERAL.—The Federal Communications Commission shall conduct an economic study on the impact that low-power FM stations will have on full-service commercial FM stations.

''(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

''(c) LICENSING NOT AFFECTED BY STUDY.—Nothing in this section shall affect the licensing of new low-power FM stations as otherwise permitted under this Act.''

BROADCAST OWNERSHIP

Pub. L. 104–104, title II, § 202, Feb. 8, 1996, 110 Stat. 110, as amended by Pub. L. 108–199, div. B, title VI, § 629, Jan. 23, 2004, 118 Stat. 99, provided that:

''(a) NATIONAL RADIO STATION OWNERSHIP RULE CHANGES REQUIRED.—The Commission shall modify section 73.3555 of its regulations (47 C.F.R. 73.3555) by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity nationally.

''(b) LOCAL RADIO DIVERSITY.—

''(1) APPLICABLE CAPS.—The Commission shall revise section 73.3555(a) of its regulations (47 C.F.R. 73.3555) to provide that—

''(A) in a radio market with 45 or more commercial radio stations, a party may own, operate, or control up to 8 commercial radio stations, not more than 5 of which are in the same service (AM or FM);

''(B) in a radio market with between 30 and 44 (inclusive) commercial radio stations, a party may own, operate, or control up to 7 commercial radio stations, not more than 4 of which are in the same service (AM or FM);

''(C) in a radio market with between 15 and 29 (inclusive) commercial radio stations, a party may own, operate, or control up to 6 commercial radio stations, not more than 4 of which are in the same service (AM or FM); and

''(D) in a radio market with 14 or fewer commercial radio stations, a party may own, operate, or control up to 5 commercial radio stations, not more than 3 of which are in the same service (AM or FM), except that a party may not own, operate, or control more than 50 percent of the stations in such market.

''(2) EXCEPTION.—Notwithstanding any limitation authorized by this subsection, the Commission may permit a person or entity to own, operate, or control, or have a cognizable interest in, radio broadcast stations if the Commission determines that such ownership, operation, control, or interest will result in an increase in the number of radio broadcast stations in operation.

''(c) TELEVISION OWNERSHIP LIMITATIONS.—

''(1) NATIONAL OWNERSHIP LIMITATIONS.—The Commission shall modify its rules for multiple ownership set forth in section 73.3555 of its regulations (47 C.F.R. 73.3555)—

''(A) by eliminating the restrictions on the number of television stations that a person or entity may directly or indirectly own, operate, or control, or have a cognizable interest in, nationwide; and

''(B) by increasing the national audience reach limitation for television stations to 39 percent.

''(2) LOCAL OWNERSHIP LIMITATIONS.—The Commission shall conduct a rulemaking proceeding to determine whether to retain, modify, or eliminate its limitations on the number of television stations that a person or entity may own, operate, or control, or have a cognizable interest in, within the same television market.

''(3) DIVESTITURE.—A person or entity that exceeds the 39 percent national audience reach limitation for television stations in paragraph (1)(B) through grant, transfer, or assignment of an additional license for a commercial television broadcast station shall have not more than 2 years after exceeding such limitation to come into compliance with such limitation. This divestiture requirement shall not apply to persons or entities that exceed the 39 percent national audience reach limitation through population growth.

''(4) FORBEARANCE.—Section 10 of the Communications Act of 1934 (47 U.S.C. 160) shall not apply to any person or entity that exceeds the 39 percent national audience reach limitation for television stations in paragraph (1)(B);[.]

''(d) RELAXATION OF ONE-TO-A-MARKET.—With respect to its enforcement of its one-to-a-market ownership rules under section 73.3555 of its regulations, the Commission shall extend its waiver policy to any of the top 50 markets, consistent with the public interest, convenience, and necessity.

''(e) DUAL NETWORK CHANGES.—The Commission shall revise section 73.658(g) of its regulations (47 C.F.R. 658(g)) to permit a television broadcast station to affiliate with a person or entity that maintains 2 or more networks of television broadcast stations unless such dual or multiple networks are composed of—

''(1) two or more persons or entities that, on the date of enactment of the Telecommunications Act of 1996 [Feb. 8, 1996], are 'networks' as defined in section 73.3613(a)(1) of the Commission's regulations (47 C.F.R. 73.3613(a)(1)); or

''(2) any network described in paragraph (1) and an English language program distribution service that, on such date, provides 4 or more hours of programming per week on a national basis pursuant to network affiliation arrangements with local television broadcast stations in markets reaching more than 75 percent of television homes (as measured by a national ratings service).

''(f) CABLE CROSS OWNERSHIP.—

''(1) ELIMINATION OF RESTRICTIONS.—The Commission shall revise section 76.501 of its regulations (47 C.F.R. 76.501) to permit a person or entity to own or control a network of broadcast stations and a cable system.

''(2) SAFEGUARDS AGAINST DISCRIMINATION.—The Commission shall revise such regulations if necessary to ensure carriage, channel positioning, and nondiscriminatory treatment of nonaffiliated broadcast stations by a cable system described in paragraph (1).

''(g) LOCAL MARKETING AGREEMENTS.—Nothing in this section shall be construed to prohibit the origination, continuation, or renewal of any television local marketing agreement that is in compliance with the regulations of the Commission.

''(h) FURTHER COMMISSION REVIEW.—The Commission shall review its rules adopted pursuant to this section and all of its ownership rules quadrennially as part of its regulatory reform review under section 11 of the Communications Act of 1934 [47 U.S.C. 161] and shall determine whether any of such rules are necessary in the public interest as the result of competition. The Commission shall repeal or modify any regulation it determines to be no longer in the public interest. This subsection does not apply to any rules relating to the 39 percent national audience reach limitation in subsection (c)(1)(B).

''(i) ELIMINATION OF STATUTORY RESTRICTION.—[Amended section 533(a) of this title.]''

RESTRICTIONS ON OVER-THE-AIR RECEPTION DEVICES

Section 207 of Pub. L. 104–104 provided that: ''Within 180 days after the date of enactment of this Act [Feb. 8, 1996], the Commission shall, pursuant to section 303 of the Communications Act of 1934 [47 U.S.C. 303], promulgate regulations to prohibit restrictions that impair a viewer's ability to receive video programming services through devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service, or direct broadcast satellite services.''

PARENTAL CHOICE IN TELEVISION PROGRAMMING

Section 551(a) of Pub. L. 104–104 provided that: ''The Congress makes the following findings:

''(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

''(2) Television station operators, cable television system operators, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming has established a uniquely pervasive presence in the lives of American children.

''(3) The average American child is exposed to 25 hours of television each week and some children are exposed to as much as 11 hours of television a day.

''(4) Studies have shown that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than children not so exposed, and that children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior.

''(5) Children in the United States are, on average, exposed to an estimated 8,000 murders and 100,000 acts of violence on television by the time the child completes elementary school.

''(6) Studies indicate that children are affected by the pervasiveness and casual treatment of sexual material on television, eroding the ability of parents to develop responsible attitudes and behavior in their children.

''(7) Parents express grave concern over violent and sexual video programming and strongly support technology that would give them greater control to block video programming in the home that they consider harmful to their children.

''(8) There is a compelling governmental interest in empowering parents to limit the negative influences of video programming that is harmful to children.

''(9) Providing parents with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children is a nonintrusive and narrowly tailored means of achieving that compelling governmental interest.''

ADVISORY COMMITTEE REQUIREMENTS

Section 551(b)(2) of Pub. L. 104–104 provided that: ''In establishing an advisory committee for purposes of the amendment made by paragraph (1) of this subsection [amending this section], the Commission shall—

''(A) ensure that such committee is composed of parents, television broadcasters, television programming producers, cable operators, appropriate public interest groups, and other interested individuals from the private sector and is fairly balanced in terms of political affiliation, the points of view represented, and the functions to be performed by the committee;

''(B) provide to the committee such staff and resources as may be necessary to permit it to perform its functions efficiently and promptly; and

''(C) require the committee to submit a final report of its recommendations within one year after the date of the appointment of the initial members.''

TECHNOLOGY FUND

Section 552 of Pub. L. 104–104 provided that: ''It is the policy of the United States to encourage broadcast television, cable, satellite, syndication, other video programming distributors, and relevant related industries (in consultation with appropriate public interest groups and interested individuals from the private sector) to—

''(1) establish a technology fund to encourage television and electronics equipment manufacturers to facilitate the development of technology which would empower parents to block programming they deem inappropriate for their children and to encourage the availability thereof to low income parents;

''(2) report to the viewing public on the status of the development of affordable, easy to use blocking technology; and

''(3) establish and promote effective procedures, standards, systems, advisories, or other mechanisms for ensuring that users have easy and complete access to the information necessary to effectively utilize blocking technology and to encourage the availability thereof to low income parents.''

AM RADIO IMPROVEMENT STANDARD

Section 214 of Pub. L. 102–538 provided that: ''The Federal Communications Commission shall—

''(1) within 60 days after the date of enactment of this Act [Oct. 27, 1992], initiate a rulemaking to adopt a single AM radio stereophonic transmitting equipment standard that specifies the composition of the transmitted stereophonic signal; and

''(2) within one year after such date of enactment, adopt such standard.''

BROADCASTING OF INDECENT PROGRAMMING; FCC REGULATIONS

Pub. L. 102–356, § 16(a), Aug. 26, 1992, 106 Stat. 954, provided that: ''The Federal Communications Commission shall promulgate regulations to prohibit the broadcasting of indecent programming—

''(1) between 6 a.m. and 10 p.m. on any day by any public radio station or public television station that goes off the air at or before 12 midnight; and

''(2) between 6 a.m. and 12 midnight on any day for any radio or television broadcasting station not described in paragraph (1).

The regulations required under this subsection shall be promulgated in accordance with section 553 of title 5, United States Code, and shall become final not later than 180 days after the date of enactment of this Act [Aug. 26, 1992].''

CONGRESSIONAL FINDINGS REGARDING ACCESS BY HEARING-IMPAIRED PEOPLE TO TELEVISION MEDIUM

Section 2 of Pub. L. 101–431 provided that: ''The Congress finds that—

''(1) to the fullest extent made possible by technology, deaf and hearing-impaired people should have equal access to the television medium;

''(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

''(3) closed-captioned television will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

''(4) closed-captioned television will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing;

''(5) closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

''(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

''(7) currently, a consumer must buy a TeleCaption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

''(8) technology is now available to enable that closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

''(9) the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.''

DIRECTION ON USE OF FUNDS REGARDING SPECTRUM ALLOCATION AND ASSIGNMENTS FOR PUBLIC SAFETY PURPOSES

Pub. L. 98–214, § 9, Dec. 8, 1983, 97 Stat. 1470, provided that:

''(a) Funds authorized to be appropriated under section 2 of this Act [amending section 156 of this title] shall be used by the Federal Communications Commission to establish a plan which adequately ensures that the needs of State and local public safety authorities would be taken into account in making allocations of the electromagnetic spectrum. In establishing such a plan the Commission shall (1) review the current and future needs of such public safety authorities in light of suitable and commercially available equipment and (2) consider the need for a nationwide contiguous frequency allocation for public safety purposes.

''(b) Pending adoption of a plan, the Commission, while making assignments and allocations, shall duly recognize the needs of State and local public safety authorities.''

§ 303a. Standards for children's television programming

(a) Establishment

The Commission shall, within 30 days after October 18, 1990, initiate a rulemaking proceeding to prescribe standards applicable to commercial television broadcast licensees with respect to the time devoted to commercial matter in conjunction with children's television programming. The Commission shall, within 180 days after October 18, 1990, complete the rulemaking proceeding and prescribe final standards that meet the requirements of subsection (b) of this section.

(b) Advertising duration limitations

Except as provided in subsection (c) of this section, the standards prescribed under subsection (a) of this section shall include the requirement that each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

(c) Review of advertising duration limitations; modification

After January 1, 1993, the Commission—

(1) may review and evaluate the advertising duration limitations required by subsection (b) of this section; and

(2) may, after notice and public comment and a demonstration of the need for modification of such limitations, modify such limitations in accordance with the public interest.

(d) "Commercial television broadcast licensee" defined

As used in this section, the term ''commercial television broadcast licensee'' includes a cable operator, as defined in section 522 of this title.

(Pub. L. 101–437, title I, § 102, Oct. 17, 1990, 104 Stat. 996.)

CODIFICATION

Section was enacted as part of the Children's Television Act of 1990, and not as part of the Communications Act of 1934 which comprises this chapter.

CONGRESSIONAL FINDINGS

Section 101 of title I of Pub. L. 101–437 provided that: ''The Congress finds that—

''(1) it has been clearly demonstrated that television can assist children to learn important information, skills, values, and behavior, while entertaining them and exciting their curiosity to learn about the world around them;

''(2) as part of their obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children;

''(3) the financial support of advertisers assists in the provision of programming to children;

''(4) special safeguards are appropriate to protect children from overcommercialization on television;

''(5) television station operators and licensees should follow practices in connection with children's television programming and advertising that take into consideration the characteristics of this child audience; and

''(6) it is therefore necessary that the Federal Communications Commission (hereinafter referred to as the 'Commission') take the actions required by this title [enacting sections 303a and 303b of this title].''

§ 303b. Consideration of children's television service in broadcast license renewal

(a) After the standards required by section 303a of this title are in effect, the Commission shall, in its review of any application for renewal of a commercial or noncommercial television broadcast license, consider the extent to which the licensee—

(1) has complied with such standards; and

(2) has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.

(b) In addition to consideration of the licensee's programming as required under subsection (a) of this section, the Commission may consider—

(1) any special nonbroadcast efforts by the licensee which enhance the educational and informational value of such programming to children; and

(2) any special efforts by the licensee to produce or support programming broadcast by

another station in the licensee's marketplace which is specifically designed to serve the educational and informational needs of children.

(Pub. L. 101–437, title I, § 103, Oct. 17, 1990, 104 Stat. 997; Pub. L. 102–356, § 15, Aug. 26, 1992, 106 Stat. 954; Pub. L. 103–414, title III, § 303(c), Oct. 25, 1994, 108 Stat. 4296.)

CODIFICATION

Section was enacted as part of the Children's Television Act of 1990, and not as part of the Communications Act of 1934 which comprises this chapter.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–414 substituted ''noncommercial'' for ''noncommerical''.

1992—Subsec. (a). Pub. L. 102–356 inserted reference to commercial or noncommercial television broadcast licenses.

§ 303c. Television program improvement

(a) Short title

This section may be cited as the ''Television Program Improvement Act of 1990''.

(b) Definitions

For purposes of this section—

(1) the term ''antitrust laws'' has the meaning given it in subsection (a) of section 12 of title 15, except that such term includes section 45 of title 15 to the extent that section 45 of title 15 applies to unfair methods of competition;

(2) the term ''person in the television industry'' means a television network, any entity which produces programming (including theatrical motion pictures) for telecasting or telecasts programming, the National Cable Television Association, the Association of Independent Television Stations, Incorporated, the National Association of Broadcasters, the Motion Picture Association of America, the Community Antenna Television Association, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(3) the term ''telecast'' means—

(A) to broadcast by a television broadcast station; or

(B) to transmit by a cable television system or a satellite television distribution service.

(c) Exemption

The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence in telecast material.

(d) Limitations

(1) The exemption provided in subsection (c) of this section shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (c) of this section shall apply only to any joint discussion, consideration, review, action, or agreement engaged in only during the 3-year period beginning on December 1, 1990.

(Pub. L. 101–650, title V, § 501, Dec. 1, 1990, 104 Stat. 5127.)

CODIFICATION

Section was enacted as part of the Television Program Improvement Act of 1990 and also as part of the Judicial Improvements Act of 1990, and not as part of the Communications Act of 1934 which comprises this chapter.

§ 304. Waiver by license of claims to particular frequency or of electromagnetic spectrum

No station license shall be granted by the Commission until the applicant therefor shall have waived any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise.

(June 19, 1934, ch. 652, title III, § 304, 48 Stat. 1083; Pub. L. 97–259, title I, § 127(a), Sept. 13, 1982, 96 Stat. 1099; Pub. L. 102–538, title II, § 204(a), Oct. 27, 1992, 106 Stat. 3543.)

AMENDMENTS

1992—Pub. L. 102–538 substituted ''waived'' for ''signed a waiver of''.

1982—Pub. L. 97–259 substituted ''electromagnetic spectrum'' for ''ether''.

§ 305. Government owned stations

(a) Frequencies; compliance with regulations; stations on vessels

Radio stations belonging to and operated by the United States shall not be subject to the provisions of sections 301 and 303 of this title. All such Government stations shall use such frequencies as shall be assigned to each or to each class by the President. All such stations, except stations on board naval and other Government vessels while at sea or beyond the limits of the continental United States, when transmitting any radio communication or signal other than a communication or signal relating to Government business, shall conform to such rules and regulations designed to prevent interference with other radio stations and the rights of others as the Commission may prescribe.

(b) Call letters

All stations owned and operated by the United States, except mobile stations of the Army of the United States, and all other stations on land and sea, shall have special call letters designated by the Commission.

(c) Stations operated by foreign governments

The provisions of sections 301 and 303 of this title notwithstanding, the President may, provided he determines it to be consistent with and in the interest of national security, authorize a foreign government, under such terms and conditions as he may prescribe, to construct and operate at the seat of government of the United States a low-power radio station in the fixed service at or near the site of the embassy or legation of such foreign government for transmission of its messages to points outside the United States, but only (1) where he determines that the authorization would be consistent with the national interest of the United States and

(2) where such foreign government has provided reciprocal privileges to the United States to construct and operate radio stations within territories subject to its jurisdiction. Foreign government stations authorized pursuant to the provisions of this subsection shall conform to such rules and regulations as the President may prescribe. The authorization of such stations, and the renewal, modification, suspension, revocation, or other termination of such authority shall be in accordance with such procedures as may be established by the President and shall not be subject to the other provisions of this chapter or of subchapter II of chapter 5, and chapter 7, of title 5.

(June 19, 1934, ch. 652, title III, § 305, 48 Stat. 1083; Pub. L. 87–795, Oct. 11, 1962, 76 Stat. 903; Pub. L. 97–31, § 12(150), Aug. 6, 1981, 95 Stat. 167; Pub. L. 104–104, title IV, § 403(h)(1), Feb. 8, 1996, 110 Stat. 131.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

In subsec. (c), ''subchapter II of chapter 5, and chapter 7, of title 5'' substituted for ''the Administrative Procedure Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsecs. (b) to (d). Pub. L. 104–104 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: ''Radio stations on board vessels of the Maritime Administration of the Department of Transportation or the Inland and Coastwise Waterways Service shall be subject to the provisions of this subchapter.''

1981—Subsec. (b). Pub. L. 97–31 substituted ''Maritime Administration of the Department of Transportation'' for ''United States Shipping Board Bureau or the United States Shipping Board Merchant Fleet Corporation''. For prior transfers of functions, see Transfer of Functions note set out below.

1962—Subsec. (d). Pub. L. 87–795 added subsec. (d).

TRANSFER OF FUNCTIONS

For transfer of functions of United States Shipping Board Bureau and United States Shipping Board Merchant Fleet Corporation, see Ex. Ord. No. 6166, set out under section 901 of Title 5, Government Organization and Employees, act June 29, 1936, ch. 858, title II, §§ 203, 204, title IX, § 904, 49 Stat. 1987, 2016, and Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out in the Appendix to Title 5.

REORGANIZATION PLAN NO. 1 OF 1970

Eff. Apr. 20, 1970, 35 F.R. 6421, 84 Stat. 2083

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, February 9, 1970, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

OFFICE OF TELECOMMUNICATIONS POLICY

SECTION 1. TRANSFER OF FUNCTIONS

The functions relating to assigning frequencies to radio stations belonging to and operated by the United States, or to classes thereof, conferred upon the President by the provisions of section 305(a) of the Communications Act of 1934, 47 U.S.C. 305(a), are hereby transferred to the Director of the Office of Telecommunications Policy hereinafter provided for.

SEC. 2. ESTABLISHMENT OF OFFICE

There is hereby established in the Executive Office of the President the Office of Telecommunications Policy, hereinafter referred to as the Office.

SEC. 3. DIRECTOR AND DEPUTY

(a) There shall be at the head of the Office the Director of the Office of Telecommunications Policy, hereinafter referred to as the Director. The Director shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(b) There shall be in the Office a Deputy Director of the Office of Telecommunications Policy who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Director shall perform such functions as the Director may from time to time prescribe and, unless the President shall designate another person to so act, shall act as Director during the absence or disability of the Director or in the event of vacancy in the office of Director.

(c) No person shall while holding office as Director or Deputy Director engage in any other business, vocation, or employment.

SEC. 4. PERFORMANCE OF FUNCTIONS OF DIRECTOR

(a) The Director may appoint employees necessary for the work of the Office under the classified civil service and fix their compensation in accordance with the classification laws.

(b) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance of any function transferred to him hereunder by any other officer, or by any organizational entity or employee, of the Office.

SEC. 5. ABOLITION OF OFFICE

That office of Assistant Director of the Office of Emergency Preparedness held by the Director of Telecommunications Management under Executive Order No. 10995 of February 16, 1962, as amended, is abolished. The Director of the Office of Emergency Preparedness shall make such provisions as he may deem to be necessary with respect to winding up any outstanding affairs of the office abolished by the foregoing provisions of this section.

SEC. 6. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, or used by, or available or to be made available to, the Office of Emergency Preparedness in connection with functions affected by the provisions of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Office of Telecommunications Policy at such time or times as he shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 7. INTERIM DIRECTOR

The President may authorize any person who immediately prior to the effective date of this reorganization plan holds a position in the Executive Office of the

President to act as Director of the Office of Telecommunications Policy until the office of Director is for the first time filled pursuant to the provisions of section 3 of this reorganization plan or by recess appointment, as the case may be. The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office of Director. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

[The Office of Telecommunications Policy was abolished and its functions transferred to the President and the Secretary of Commerce by secs. 3 and 5 of Reorg. Plan No. 1 of 1977, set out in the Appendix to Title 5, Government Organization and Employees.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

We live in a time when the technology of telecommunications is undergoing rapid change which will dramatically affect the whole of our society. It has long been recognized that the executive branch of the Federal government should be better equipped to deal with the issues which arise from telecommunications growth. As the largest single user of the nation's telecommunications facilities, the Federal government must also manage its internal communications operations in the most effective manner possible.

Accordingly, I am today transmitting to the Congress Reorganization Plan No. 1 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code.

That plan would establish a new Office of Telecommunications Policy in the Executive Office of the President. The new unit would be headed by a Director and a Deputy Director who would be appointed by the President with the advice and consent of the Senate. The existing office held by the Director of Telecommunications Management in the Office of Emergency Preparedness would be abolished.

In addition to the functions which are transferred to it by the reorganization plan, the new Office would perform certain other duties which I intend to assign to it by Executive order as soon as the reorganization plan takes effect. That order would delegate to the new Office essentially those functions which are now assigned to the Director of Telecommunications Management. The Office of Telecommunications Policy would be assisted in its research and analysis responsibilities by the agencies and departments of the Executive Branch including another new office, located in the Department of Commerce.

The new Office of Telecommunications Policy would play three essential roles:

1. It would serve as the President's principal adviser on telecommunications policy, helping to formulate government policies concerning a wide range of domestic and international telecommunications issues and helping to develop plans and programs which take full advantage of the nation's technological capabilities. The speed of economic and technological advance in our time means that new questions concerning communications are constantly arising, questions on which the government must be well informed and well advised. The new Office will enable the President and all government officials to share more fully in the experience, the insights, and the forecasts of government and non-government experts.

2. The Office of Telecommunications Policy would help formulate policies and coordinate operations for the Federal government's own vast communications systems. It would, for example, set guidelines for the various departments and agencies concerning their communications equipment and services. It would regularly review the ability of government communications systems to meet the security needs of the nation and to perform effectively in time of emergency. The Office would direct the assignment of those portions of the radio spectrum which are reserved for government use, carry out responsibilities conferred on the President by the Communications Satellite Act, advise State and local governments, and provide policy direction for the National Communications System.

3. Finally, the new Office would enable the executive branch to speak with a clearer vote and to act as a more effective partner in discussions of communications policy with both the Congress and the Federal Communications Commission. This action would take away none of the prerogatives or functions assigned to the Federal Communications Commission by the Congress. It is my hope, however, that the new Office and the Federal Communications Commission would cooperate in achieving certain reforms in telecommunications policy, especially in their procedures for allocating portions of the radio spectrum for government and civilian use. Our current procedures must be more flexible if they are to deal adequately with problems such as the worsening spectrum shortage.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), ''to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;'' and section 901(a)(3), ''to increase the efficiency of the operations of the government to the fullest extent practicable.''

The reorganization provided for in this plan make necessary the appointment and compensation of new officers, as specified in sections 3(a) and 3(b) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

This plan should result in the more efficient operation of the government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

The public interest requires that government policies concerning telecommunications be formulated with as much sophistication and vision as possible. This reorganization plan—and the executive order which would follow it—are necessary instruments if the government is to respond adequately to the challenges and opportunities presented by the rapid pace of change in communications. I urge that the Congress allow this plan to become effective so that these necessary reforms can be accomplished.

RICHARD NIXON.

THE WHITE HOUSE, February 9, 1970.

EXECUTIVE ORDER NO. 10995

Ex. Ord. No. 10995, eff. Feb. 16, 1962, 27 F.R. 1519, as amended by Ex. Ord. No. 11084, eff. Feb. 18, 1963, 28 F.R. 1531, which related to the assignment of telecommunications management functions, was revoked by Ex. Ord. No. 11556, eff. Sept. 14, 1970, 35 F.R. 14193, formerly set out below.

EXECUTIVE ORDER NO. 11556

Ex. Ord. No. 11556, Sept. 4, 1970, 35 F.R. 14193, as amended by Ex. Ord. No. 11921, June 11, 1976, 41 F.R. 2494, which related to the assignment of telecommunication functions, was revoked by Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, set out below.

EX. ORD. NO. 12046. TRANSFER OF TELECOMMUNICATIONS FUNCTIONS

Ex. Ord. No. 12046, Mar. 27, 1978, 43 F.R. 13349, as amended by Ex. Ord. No. 12148, July 20, 1979, 44 F.R. 43239; Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 7 of Reorganization Plan No. 1 of 1977 (42 FR 56101 (October 21, 1977)) [set out in the Appendix to Title 5, Government Organization and Employees], the authority and control vested in the President by

Section 2 of Executive Order No. 11556, as amended. Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to provide for the transfer of certain telecommunications functions, it is hereby ordered as follows:

SECTION 1

REORGANIZATION PLAN

1–1. IMPLEMENTATION OF REORGANIZATION PLAN

1–101. The transfer of all the functions of the Office of Telecommunications Policy and of its Director, as provided by Section 5B of Reorganization Plan No. 1 of 1977 (42 FR 56101), is hereby effective.

1–102. The abolition of the Office of Telecommunications Policy, as provided by Section 3C of Reorganization Plan No. 1 of 1977, is hereby effective.

1–103. The establishment of an Assistant Secretary for Communications and Information, Department of Commerce, as provided by Section 4 of Reorganization Plan No. 1 of 1977, is hereby effective.

1–2. TELECOMMUNICATIONS FUNCTION

1–201. Prior to the effective date of Reorganization Plan No. 1 of 1977, the Office of Telecommunications Policy and its Director had the functions set forth or referenced by: (1) Section 1 of Reorganization Plan No. 1 of 1970 (5 U.S.C. App.), (2) Executive Order No. 11556 of September 4, 1970, as amended (47 U.S.C. 305 note), (3) Executive Order No. 11191 of January 4, 1965, as amended (47 U.S.C. 721 note), (4) Executive Order No. 10705 of April 17, 1957, as amended (47 U.S.C. 606 note), and (5) Presidential Memorandum of August 21, 1963, as amended by Executive Order No. 11556 and entitled ''Establishment of the National Communications System.''

1–202. So much of those functions which relate to the preparation of Presidential telecommunications policy options or to the disposition of appeals from assignments of radio frequencies to stations of the United States Government were transferred to the President. These functions may be delegated within the Executive Office of the President and the delegations are set forth in this Order at Sections 3–1 through 4–3.

1–203. Those telecommunications functions which were not transferred to the President were transferred to the Secretary of Commerce. Functions transferred to the Secretary are set forth in this Order at Sections 2–1 through 2–5.

SECTION 2

FUNCTIONS TRANSFERRED TO COMMERCE

2–1. RADIO FREQUENCIES

2–101. The authority of the President to assign frequencies to radio stations or to classes of radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke such assignments, was transferred to the Secretary of Commerce.

2–102. This authority, which was originally vested in the President by Section 305(a) of the Communications Act of 1934, as amended (47 U.S.C. 305(a)), was transferred and assigned to the Director of the Office of Telecommunications Policy by Section 1 of Reorganization Plan No. 1 of 1970 and Section 3 of Executive Order No. 11556.

2–103. The authority to assign frequencies to radio stations is subject to the authority to dispose of appeals from frequency assignments as set forth in Section 3–2 of this Order.

2–2. CONSTRUCTION OF RADIO STATIONS

2–201. The authority to authorize a foreign government to construct and operate a radio station at the seat of government of the United States was transferred to the Secretary of Commerce. Authorization for the construction and operation of a radio station pursuant to this authority and the assignment of a frequency for its use can be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Federal Communications Commission.

2–202. This authority, which was originally vested in the President by Section 305(d) of the Communications Act of 1934, as amended (47 U.S.C. 305), was delegated to the Director of the Office of Telecommunications Policy by Section 5 of Executive Order No. 11556.

2–3. COMMUNICATIONS SATELLITE SYSTEM

2–301. Certain functions relating to the communications satellite system were transferred to the Secretary of Commerce. Those functions were delegated or assigned to the Director of the Office of Telecommunications Policy by Executive Order No. 11191, as amended by Executive Order No. 11556. The functions include authority vested in the President by Section 201(a) of the Communications Satellite Act of 1962 (76 Stat. 421, 47 U.S.C. 721(a)). These functions are specifically set forth in the following provisions of this Section.

(a) Aid in the planning and development of the commercial communications satellite system and aid in the execution of a national program for the operation of such a system.

(b) Conduct a continuous review of all phases of the development and operation of such system, including the activities of the Corporation.

(c) Coordinate, in consultation with the Secretary of State, the activities of governmental agencies with responsibilities in the field of telecommunications, so as to insure that there is full and effective compliance at all times with the policies set forth in the Act [47 U.S.C. 701 et seq.].

(d) Make recommendations to the President and others as appropriate, with respect to all steps necessary to insure the availability and appropriate utilization of the communications satellite system for general government purposes in consonance with Section 201(a)(6) of the Act [47 U.S.C. 721(a)(6)].

(e) Help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad.

(f) Assist in the preparation of Presidential action documents for consideration by the President as may be appropriate under Section 201(a) of the Act, make necessary recommendations to the President in connection therewith, and keep the President currently informed with respect to the carrying out of the Act.

(g) Serve as the chief point of liaison between the President and the Corporation.

(h) The Secretary of Commerce shall timely submit to the President each year the report (including evaluations and recommendations) provided for in Section 404(a) of the Act (47 U.S.C. 744(a)).

(i) The Secretary of Commerce shall coordinate the performance of these functions with the Secretary of State. The Corporation and other concerned Executive agencies shall provide the Secretary of Commerce with such assistance, documents, and other cooperation as will enable the Secretary to carry out these functions.

2–4. OTHER TELECOMMUNICATIONS FUNCTIONS

Certain functions assigned, subject to the authority and control of the President to the Director of the Office of Telecommunications Policy by Section 2 of Executive Order No. 11556 were transferred to the Secretary of Commerce. These functions, subject to the authority and control of the President, are set forth in the following subsections.

2–401. The Secretary of Commerce shall serve as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

2–402. The Secretary of Commerce shall advise the Director of the Office of Management and Budget on the development of policies relating to the procurement and management of Federal telecommunications systems.

2–403. The Secretary of Commerce shall conduct studies and evaluations concerning telecommunications research and development, and concerning the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems. The Secretary shall advise appropriate agencies, including the Office of Management and Budget, of the recommendations which result from such studies and evaluations.

2–404. The Secretary of Commerce shall develop and set forth, in coordination with the Secretary of State and other interested agencies, plans, policies, and programs which relate to international telecommunications issues, conferences, and negotiations. The Secretary of Commerce shall coordinate economic, technical, operational and related preparations for United States participation in international telecommunications conferences and negotiations. The Secretary shall provide advice and assistance to the Secretary of State on international telecommunications policies to strengthen the position and serve the best interests of the United States, in support of the Secretary of State's responsibility for the conduct of foreign affairs.

2–405. The Secretary of Commerce shall provide for the coordination of the telecommunications activities of the Executive Branch, and shall assist in the formulation of policies and standards for those activities, including but not limited to considerations of interoperability, privacy, security, spectrum use and emergency readiness.

2–406. The Secretary of Commerce shall develop and set forth telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

2–407. The Secretary of Commerce shall ensure that the Executive Branch views on telecommunications matters are effectively presented to the Federal Communications Commission and, in coordination with the Director of the Office of Management and Budget, to the Congress.

2–408. The Secretary of Commerce shall establish policies concerning spectrum assignments and use by radio stations belonging to and operated by the United States. Agencies shall consult with the Secretary of Commerce to ensure that their conduct of telecommunications activities is consistent with those policies.

2–409. The Secretary of Commerce shall develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources.

2–410. The Secretary of Commerce shall conduct studies and make recommendations concerning the impact of the convergence of computer and communications technology.

2–411. The Secretary of Commerce shall coordinate Federal telecommunications assistance to State and local governments, except as otherwise provided by Executive Order No. 12472 [set out as a note under section 5195 of Title 42, The Public Health and Welfare].

2–412. The Secretary of Commerce shall conduct and coordinate economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

2–413. The Secretary of Commerce shall contract for studies and reports related to any aspect of assigned responsibilities.

2–414. [Revoked. Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471.]

2–5. Consultation Responsibilities

2–501. The authority to establish coordinating committees, as assigned to the Director of the Office of Telecommunications Policy by Section 10 of Executive Order No. 11556, was transferred to the Secretary of Commerce.

2–502. As permitted by law, the Secretary of Commerce shall establish such interagency committees and working groups composed of representatives of interested agencies, and shall consult with such departments and agencies as may be necessary for the most effective performance of his functions. To the extent he deems it necessary to continue the Interdepartment Radio Advisory Committee, that Committee shall serve in an advisory capacity to the Secretary. As permitted by law, the Secretary also shall establish one or more telecommunications advisory committees composed of experts in the telecommunications area outside the Government.

SECTION 3

Functions Assigned to the Office of Management and Budget

3–1. Telecommunications Procurement and Management

3–101. The responsibility for serving as the President's principal adviser on procurement and management of Federal telecommunications systems and the responsibility for developing and establishing policies for procurement and management of such systems, which responsibilities were assigned to the Director of the Office of Telecommunications Policy subject to the authority and control of the President by Section 2(b) of Executive Order No. 11556, were transferred to the President.

3–102. These functions are delegated to the Director of the Office of Management and Budget.

3–2. Radio Frequency Appeals

3–201. The authority to make final disposition of appeals from frequency assignments by the Secretary of Commerce for radio stations belonging to and operated by the United States, which authority was vested in the President by Section 305(a) of the Communications Act of 1934 (47 U.S.C. 305(a)) and transferred to the Director of the Office of Telecommunications Policy by Reorganization Plan No. 1 of 1970 (5 U.S.C. App.), was transferred to the President.

3–202. This function is delegated to the Director of the Office of Management and Budget.

SECTION 4

Functions Assigned to the National Security Council and the Office of Science and Technology Policy

4–1. Emergency Functions

4–101. The war power functions of the President under Section 606 of the Communications Act of 1934, as amended (47 U.S.C. 606), which were delegated to the Director of the Office of Telecommunications Policy by the Provisions of Section 4 of Executive Order No. 10705, were transferred to the President.

4–102. [Revoked. Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471.]

4–103. [Revoked. Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471.]

4–2. National Communications System

4–201. The responsibility for policy direction of the development and operation of a National Communications System, which was assigned to the Director of the Office of Telecommunications Policy by the Presidential Memorandum of August 21, 1963, as amended by Executive Order No. 11556, was transferred to the President.

4–202. [Revoked. Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471.]

4–3. Planning Functions

4–301. The function of coordinating the development of policy, plans, programs, and standards for the mobilization and use of the Nation's telecommunications re-

sources in any emergency, which function was assigned to the Director of the Office of Telecommunications Policy subject to the authority and control of the President by Section 2(h) of the Executive Order No. 11556, was transferred to the President.

4–302. [Revoked. Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471.]

SECTION 5

RELATED TELECOMMUNICATIONS FUNCTIONS

5–1. THE DEPARTMENT OF COMMERCE

5–101. The Secretary of Commerce shall continue to perform the following functions previously assigned by Section 13 of Executive Order No. 11556:

(a) Perform analysis, engineering, and administrative functions, including the maintenance of necessary files and data bases, as necessary in the performance of assigned responsibilities for the management of electromagnetic spectrum.

(b) Conduct research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

(c) Conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies.

5–102. The Secretary of Commerce shall participate, as appropriate, in evaluating the capability of telecommunications resources, in recommending remedial actions, and in developing policy options.

5–2. DEPARTMENT OF STATE

5–201. With respect to telecommunications, the Secretary of State shall exercise primary authority for the conduct of foreign policy, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this responsibility the Secretary of State shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the Federal Communications Commission's regulatory and policy responsibility in this area.

5–202. The Secretary of State shall continue to perform the following functions previously assigned by Executive Order No. 11191, as amended:

(a) Exercise the supervision provided for in Section 201(a)(4) of the Communications Satellite Act of 1962, as amended (47 U.S.C. 721(a)(4)), be responsible, although the Secretary of Commerce is the chief point of liaison, for instructing the Communications Satellite Corporation in its role as the designated United States representative to the International Telecommunications Satellite Organization; and direct the foreign relations of the United States with respect to actions under the Communications Satellite Act of 1962, as amended [section 701 et seq. of this title].

(b) Coordinate, in accordance with the applicable interagency agreements, the performance of these functions with the Secretary of Commerce, the Federal Communications Commission, other concerned Executive agencies, and the Communications Satellite Corporation (see 47 U.S.C. 731–735). The Corporation and other concerned Executive agencies shall provide the Secretary of State with such assistance, documents, and other cooperation as will enable the Secretary to carry out these functions.

5–3. FEDERAL EMERGENCY MANAGEMENT AGENCY [Revoked. Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471.]

SECTION 6

GENERAL PROVISIONS

6–1. TRANSFER PROVISIONS

6–101. [Revoked. Ex. Ord. No. 12472, Apr. 3, 1984, 49 F.R. 13471.]

6–102. The primary responsibility for performing all administrative support and service functions that are related to functions transferred from the Office of Telecommunications Policy and its Director to the President, including those functions delegated or assigned within the Executive Office of the President, are transferred to the Office of Administration. The Domestic Policy Staff shall perform such functions related to the preparation of Presidential telecommunications policy options as the President may from time to time direct.

6–103. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred, assigned, or delegated as provided in this Order are hereby transferred as appropriate.

6–104. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions necessary or appropriate to effectuate the transfers or reassignments provided in this Order, including the transfer of funds, records, property, and personnel.

6–2. AMENDMENTS

In order to reflect the transfers provided by this Order, the following conforming amendments and revocations are ordered:

6–201. Section 306 of Executive Order No. 11051, as amended [50 U.S.C. App. 2271 note], is further amended to read:

''Sec. 306. *Emergency telecommunications*. The Administrator of General Services shall be responsible for coordinating with the National Security Council in planning for the mobilization of the Nation's telecommunications resources in time of national emergency.''.

6–202. Executive Order No. 11490, as amended [formerly set out as a note under section 2251 of Title 50, Appendix, War and National Defense] is further amended by:

(1) substituting ''National Security Council'' for ''Office of Telecommunications Policy (35 FR 6421)'' in Section 401(27), and

(2) substituting the number of this Order for ''11556'' and deleting references to Executive Order No. 10705 [47 U.S.C. 606 note] in Sections 1802 and 2002(3).

6–203. Executive Order No. 11725, as amended [50 U.S.C. App. 2271 note], is further amended by substituting the number and date of this Order for the reference to Executive Order No. 11556 of September 4, 1970 in Section 3(16).

6–204. Executive Orders No. 10705, as amended [47 U.S.C. 606 note], No. 11191, as amended [47 U.S.C. 721 note] and No. 11556, as amended, are revoked.

6–3. GENERAL

6–301. All Executive agencies to which functions are assigned pursuant to this Order shall issue such rules and regulations as may be necessary to carry them out.

6–302. All Executive agencies are authorized and directed to cooperate with the departments and agencies to which functions are assigned pursuant to this Order and to furnish them such information, support and assistance, not inconsistent with law, as they may require in the performance of those functions.

6–303. (a) Nothing in this Order reassigns any function assigned any agency under the Federal Property and Administrative Services Act of 1949, as amended [see chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, Public Contracts], nor does anything in this Order impair the existing authority of the Administrator of General Services to provide and operate telecommunications services and to prescribe policies and methods of procurement, or impair the policy and oversight roles of the Office of Management and Budget.

(b) In carrying out the functions in this Order, the Secretary of Commerce shall coordinate activities as appropriate with the Federal Communications Commission and make appropriate recommendations to it as

the regulator of the private sector. Nothing in this Order reassigns any function vested by law in the Federal Communications Commission.

6–304. This Order shall be effective March 26, 1978.

§ 306. Foreign ships; application of section 301

Section 301 of this title shall not apply to any person sending radio communications or signals on a foreign ship while the same is within the jurisdiction of the United States, but such communications or signals shall be transmitted only in accordance with such regulations designed to prevent interference as may be promulgated under the authority of this chapter.

(June 19, 1934, ch. 652, title III, § 306, 48 Stat. 1083.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 307. Licenses

(a) Grant

The Commission, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this chapter, shall grant to any applicant therefor a station license provided for by this chapter.

(b) Allocation of facilities

In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.

(c) Terms of licenses

(1) Initial and renewal licenses

Each license granted for the operation of a broadcasting station shall be for a term of not to exceed 8 years. Upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed 8 years from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby. Consistent with the foregoing provisions of this subsection, the Commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for particular classes of stations, but the Commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a license for a shorter period than that prescribed for stations of such class if, in its judgment, the public interest, convenience, or necessity would be served by such action.

(2) Materials in application

In order to expedite action on applications for renewal of broadcasting station licenses and in order to avoid needless expense to applicants for such renewals, the Commission shall not require any such applicant to file any information which previously has been furnished to the Commission or which is not directly material to the considerations that affect the granting or denial of such application, but the Commission may require any new or additional facts it deems necessary to make its findings.

(3) Continuation pending decision

Pending any administrative or judicial hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405 or section 402 of this title, the Commission shall continue such license in effect.

(d) Renewals

No renewal of an existing station license in the broadcast or the common carrier services shall be granted more than thirty days prior to the expiration of the original license.

(e) Operation of certain radio stations without individual licenses

(1) Notwithstanding any license requirement established in this chapter, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the citizens band radio service; (B) the radio control service; (C) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (D) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this chapter and with rules prescribed by the Commission under this chapter.

(3) For purposes of this subsection, the terms ''citizens band radio service'', ''radio control service'', ''aircraft station'' and ''ship station'' shall have the meanings given them by the Commission by rule.

(f) Areas in Alaska without access to over the air broadcasts

Notwithstanding any other provision of law, (1) any holder of a broadcast license may broadcast to an area of Alaska that otherwise does not have access to over the air broadcasts via translator, microwave, or other alternative signal delivery even if another holder of a broadcast license begins broadcasting to such area, (2) any holder of a broadcast license who has broadcast to an area of Alaska that did not have access to over the air broadcasts via translator, microwave, or other alternative signal delivery may continue providing such service even if another holder of a broadcast license begins broadcasting to such area, and shall not be fined or subject to any other penalty, forfeiture, or revocation related to providing such service including any fine, penalty, forfeiture, or revocation

for continuing to operate notwithstanding orders to the contrary.

(June 19, 1934, ch. 652, title III, § 307, 48 Stat. 1083; June 5, 1936, ch. 511, § 2, 49 Stat. 1475; July 16, 1952, ch. 879, § 5, 66 Stat. 714; Pub. L. 86–752, § 3, Sept. 13, 1960, 74 Stat. 889; Pub. L. 87–439, Apr. 27, 1962, 76 Stat. 58; Pub. L. 97–35, title XII, § 1241(a), Aug. 13, 1981, 95 Stat. 736; Pub. L. 97–259, title I, §§ 112, 113(a), Sept. 13, 1982, 96 Stat. 1093; Pub. L. 104–104, title II, § 203, title IV, § 403(i), Feb. 8, 1996, 110 Stat. 112, 131; Pub. L. 108–447, div. J, title IX [title II, § 213(1), (2)], Dec. 8, 2004, 118 Stat. 3431.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (e), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2004—Subsec. (c)(3). Pub. L. 108–447, § 213(1), substituted ''any administrative or judicial hearing'' for ''any hearing'' and inserted ''or section 402'' after ''section 405''.

Subsec. (f). Pub. L. 108–447, § 213(2), added subsec. (f).

1996—Subsec. (c). Pub. L. 104–104, § 203, inserted heading and amended text generally, restructuring existing provisions into pars. (1) to (3) and substituting provisions providing 8 year term for licenses of broadcasting stations for provisions providing 5 year term for licenses of television broadcasting stations, 7 year term for licenses of radio broadcasting stations, and 10 year term for other broadcasting stations.

Subsec. (e). Pub. L. 104–104, § 403(i), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

''(1) Notwithstanding any licensing requirement established in this chapter, the Commission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

''(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual license shall comply with all other provisions of this chapter and with rules prescribed by the Commission under this chapter.

''(3) For purposes of this subsection, the terms 'radio control service' and 'citizens band radio service' shall have the meanings given them by the Commission by rule.''

1982—Subsec. (c). Pub. L. 97–259, § 112, redesignated subsec. (d) as (c), substituted ''ten years'' for ''five years'' after ''station) shall be for a longer term than'' and ''term of not to exceed'', and inserted provision that the term of any license for the operation of any auxiliary broadcast station or equipment which can be used only in conjunction with a primary radio, television, or translator station shall be concurrent with the term of the license for such primary radio, television, or translator station. Former subsec. (c), which required the Commission to study proposal that Congress allocate fixed percentages of radio broadcasting facilities to nonprofit activities and report recommendations, with reasons, to Congress not later than Feb. 1, 1935, was struck out.

Subsec. (d). Pub. L. 97–259, § 112(a), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 97–259, §§ 112(a), 113(a), added subsec. (e) and redesignated former subsec. (e) as (d).

1981—Subsec. (d). Pub. L. 97–35 substituted provisions authorizing term of five years for a television broadcasting station license, seven years for a radio broadcasting station license, and five years for any other class of license, with comparable provisions for renewal, for provisions authorizing term of three years for a broadcasting station license, and five years for any other class of station license, with comparable provisions for renewal.

1962—Subsec. (e). Pub. L. 87–439 inserted ''in the broadcast or the common carrier services'' before ''shall be granted''.

1960—Subsec. (d). Pub. L. 86–752 inserted last sentence dealing with the Commission's authority to grant licenses for periods shorter than 3 years.

1952—Subsec. (d). Act July 16, 1952, provided that upon the expiration of any license, any renewal applied for may be granted ''if the Commission finds that public interest, convenience, and necessity would be served thereby'', and provided that pending a hearing and final decision on an application for renewal and the disposition of any petition for a rehearing the Commission shall continue the license in effect.

1936—Subsec. (b). Act June 5, 1936, amended subsec. (b) generally.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 1241(b) of Pub. L. 97–35 provided that: ''The amendments made in subsection (a) [amending this section] shall apply to television and radio broadcasting licenses granted or renewed by the Federal Communications Commission after the date of the enactment of this Act [Aug. 13, 1981].''

§ 308. Requirements for license

(a) Writing; exceptions

The Commission may grant construction permits and station licenses, or modifications or renewals thereof, only upon written application therefor received by it: *Provided*, That (1) in cases of emergency found by the Commission involving danger to life or property or due to damage to equipment, or (2) during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, or (3) in cases of emergency where the Commission finds, in the nonbroadcast services, that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission may grant construction permits and station licenses, or modifications or renewals thereof, during the emergency so found by the Commission or during the continuance of any such national emergency or war, in such manner and upon such terms and conditions as the Commission shall by regulation prescribe, and without the filing of a formal application, but no authorization so granted shall continue in effect beyond the period of the emergency or war requiring it: *Provided further*, That the Commission may issue by cable, telegraph, or radio a permit for the operation of a station on a vessel of the United States at sea, effective in lieu of a license until said vessel shall return to a port of the continental United States.

(b) Conditions

All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of

the applicant to operate the station; the ownership and location of the proposed station and of the stations, if any, with which it is proposed to communicate; the frequencies and the power desired to be used; the hours of the day or other periods of time during which it is proposed to operate the station; the purposes for which the station is to be used; and such other information as it may require. The Commission, at any time after the filing of such original application and during the term of any such license, may require from an applicant or licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked. Such application and/or such statement of fact shall be signed by the applicant and/or licensee in any manner or form, including by electronic means, as the Commission may prescribe by regulation.

(c) Commercial communication

The Commission in granting any license for a station intended or used for commercial communication between the United States or any Territory or possession, continental or insular, subject to the jurisdiction of the United States, and any foreign country, may impose any terms, conditions, or restrictions authorized to be imposed with respect to submarine-cable licenses by section 35 of this title.

(d) Summary of complaints

Each applicant for the renewal of a commercial or noncommercial television license shall attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee (in accordance with Commission regulations) that comment on the applicant's programming, if any, and that are characterized by the commentor as constituting violent programming.

(June 19, 1934, ch. 652, title III, § 308, 48 Stat. 1084; July 16, 1952, ch. 879, § 6, 66 Stat. 714; Pub. L. 87–444, § 3, Apr. 27, 1962, 76 Stat. 63; Pub. L. 102–538, title II, § 204(b), Oct. 27, 1992, 106 Stat. 3543; Pub. L. 103–414, title III, § 303(a)(15), Oct. 25, 1994, 108 Stat. 4295; Pub. L. 104–104, title II, § 204(b), Feb. 8, 1996, 110 Stat. 113.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–104 added subsec. (d).

1994—Subsec. (c). Pub. L. 103–414 made technical amendment to reference to section 35 of this title to correct reference to corresponding section of original act.

1992—Subsec. (b). Pub. L. 102–538 inserted before period at end ''in any manner or form, including by electronic means, as the Commission may prescribe by regulation''.

1962—Subsec. (b). Pub. L. 87–444 struck out requirement that applications or statements of fact were to be signed under oath or affirmation.

1952—Subsec. (a). Act July 16, 1952, § 6(a), provided that the Commission may grant construction permits and station licenses, or modifications or renewals, only upon written application except that during war or emergency periods no formal application need be filed.

Subsec. (b). Act July 16, 1952, § 6(b), substituted ''All applications for station licenses or modifications or renewals thereof, shall set forth'' for ''All such applications shall set forth''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 204(c) of Pub. L. 104–104 provided that: ''The amendments made by this section [amending this section and section 309 of this title] apply to applications filed after May 1, 1995.''

§ 309. Application for license

(a) Considerations in granting application

Subject to the provisions of this section, the Commission shall determine, in the case of each application filed with it to which section 308 of this title applies, whether the public interest, convenience, and necessity will be served by the granting of such application, and, if the Commission, upon examination of such application and upon consideration of such other matters as the Commission may officially notice, shall find that public interest, convenience, and necessity would be served by the granting thereof, it shall grant such application.

(b) Time of granting application

Except as provided in subsection (c) of this section, no such application—

(1) for an instrument of authorization in the case of a station in the broadcasting or common carrier services, or

(2) for an instrument of authorization in the case of a station in any of the following categories:

(A) industrial radio positioning stations for which frequencies are assigned on an exclusive basis,

(B) aeronautical en route stations,

(C) aeronautical advisory stations,

(D) airdrome control stations,

(E) aeronautical fixed stations, and

(F) such other stations or classes of stations, not in the broadcasting or common carrier services, as the Commission shall by rule prescribe,

shall be granted by the Commission earlier than thirty days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereof.

(c) Applications not affected by subsection (b)

Subsection (b) of this section shall not apply—

(1) to any minor amendment of an application to which such subsection is applicable, or

(2) to any application for—

(A) a minor change in the facilities of an authorized station,

(B) consent to an involuntary assignment or transfer under section 310(b) of this title or to an assignment or transfer thereunder which does not involve a substantial change in ownership or control,

(C) a license under section 319(c) of this title or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license,

(D) extension of time to complete construction of authorized facilities,

(E) an authorization of facilities for remote pickups, studio links and similar facilities for use in the operation of a broadcast station,

(F) authorizations pursuant to section 325(c) of this title where the programs to be

transmitted are special events not of a continuing nature,

(G) a special temporary authorization for nonbroadcast operation not to exceed thirty days where no application for regular operation is contemplated to be filed or not to exceed sixty days pending the filing of an application for such regular operation, or

(H) an authorization under any of the proviso clauses of section 308(a) of this title.

(d) Petition to deny application; time; contents; reply; findings

(1) Any party in interest may file with the Commission a petition to deny any application (whether as originally filed or as amended) to which subsection (b) of this section applies at any time prior to the day of Commission grant thereof without hearing or the day of formal designation thereof for hearing; except that with respect to any classification of applications, the Commission from time to time by rule may specify a shorter period (no less than thirty days following the issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereof), which shorter period shall be reasonably related to the time when the applications would normally be reached for processing. The petitioner shall serve a copy of such petition on the applicant. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with subsection (a) of this section (or subsection (k) of this section in the case of renewal of any broadcast station license). Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant shall be given the opportunity to file a reply in which allegations of fact or denials thereof shall similarly be supported by affidavit.

(2) If the Commission finds on the basis of the application, the pleadings filed, or other matters which it may officially notice that there are no substantial and material questions of fact and that a grant of the application would be consistent with subsection (a) of this section (or subsection (k) of this section in the case of renewal of any broadcast station license), it shall make the grant, deny the petition, and issue a concise statement of the reasons for denying the petition, which statement shall dispose of all substantial issues raised by the petition. If a substantial and material question of fact is presented or if the Commission for any reason is unable to find that grant of the application would be consistent with subsection (a) of this section (or subsection (k) of this section in the case of renewal of any broadcast station license), it shall proceed as provided in subsection (e) of this section.

(e) Hearings; intervention; evidence; burden of proof

If, in the case of any application to which subsection (a) of this section applies, a substantial and material question of fact is presented or the Commission for any reason is unable to make the finding specified in such subsection, it shall formally designate the application for hearing on the ground or reasons then obtaining and shall forthwith notify the applicant and all other known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally. When the Commission has so designated an application for hearing the parties in interest, if any, who are not notified by the Commission of such action may acquire the status of a party to the proceeding thereon by filing a petition for intervention showing the basis for their interest not more than thirty days after publication of the hearing issues or any substantial amendment thereto in the Federal Register. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate. The burden of proceeding with the introduction of evidence and the burden of proof shall be upon the applicant, except that with respect to any issue presented by a petition to deny or a petition to enlarge the issues, such burdens shall be as determined by the Commission.

(f) Temporary authorization of temporary operations under subsection (b)

When an application subject to subsection (b) of this section has been filed, the Commission, notwithstanding the requirements of such subsection, may, if the grant of such application is otherwise authorized by law and if it finds that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of such temporary operations would seriously prejudice the public interest, grant a temporary authorization, accompanied by a statement of its reasons therefor, to permit such temporary operations for a period not exceeding 180 days, and upon making like findings may extend such temporary authorization for additional periods not to exceed 180 days. When any such grant of a temporary authorization is made, the Commission shall give expeditious treatment to any timely filed petition to deny such application and to any petition for rehearing of such grant filed under section 405 of this title.

(g) Classification of applications

The Commission is authorized to adopt reasonable classifications of applications and amendments in order to effectuate the purposes of this section.

(h) Form and conditions of station licenses

Such station licenses as the Commission may grant shall be in such general form as it may prescribe, but each license shall contain, in addition to other provisions, a statement of the following conditions to which such license shall be subject: (1) The station license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized therein; (2) neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of this chapter; (3) every license issued under this chapter shall be subject

in terms to the right of use or control conferred by section 606 of this title.

(i) Random selection

(1) GENERAL AUTHORITY.—Except as provided in paragraph (5), if there is more than one application for any initial license or construction permit, then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.

(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) of this section and section 308(b) of this title. When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

(A) adopt procedures for the submission of all or part of the evidence in written form;

(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

(C) omit the determination required by subsection (a) of this section with respect to any application other than the one selected pursuant to paragraph (1).

(3)(A) The Commission shall establish rules and procedures to ensure that, in the administration of any system of random selection under this subsection used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.

(B) The Commission shall have authority to require each qualified applicant seeking a significant preference under subparagraph (A) to submit to the Commission such information as may be necessary to enable the Commission to make a determination regarding whether such applicant shall be granted such preference. Such information shall be submitted in such form, at such times, and in accordance with such procedures, as the Commission may require.

(C) For purposes of this paragraph:

(i) The term ''media of mass communications'' includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

(ii) The term ''minority group'' includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.

(4)(A) The Commission shall, after notice and opportunity for hearing, prescribe rules establishing a system of random selection for use by the Commission under this subsection in any instance in which the Commission, in its discretion, determines that such use is appropriate for the granting of any license or permit in accordance with paragraph (1).

(B) The Commission shall have authority to amend such rules from time to time to the extent necessary to carry out the provisions of this subsection. Any such amendment shall be made after notice and opportunity for hearing.

(C) Not later than 180 days after August 10, 1993, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.

(5) TERMINATION OF AUTHORITY.—(A) Except as provided in subparagraph (B), the Commission shall not issue any license or permit using a system of random selection under this subsection after July 1, 1997.

(B) Subparagraph (A) of this paragraph shall not apply with respect to licenses or permits for stations described in section 397(6) of this title.

(j) Use of competitive bidding

(1) General authority

If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit, then, except as provided in paragraph (2), the Commission shall grant the license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

(2) Exemptions

The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

(A) for public safety radio services, including private internal radio services used by State and local governments and non-government entities and including emergency road services provided by not-for-profit organizations, that—

(i) are used to protect the safety of life, health, or property; and

(ii) are not made commercially available to the public;

(B) for initial licenses or construction permits for digital television service given to existing terrestrial broadcast licensees to replace their analog television service licenses; or

(C) for stations described in section 397(6) of this title.

(3) Design of systems of competitive bidding

For each class of licenses or permits that the Commission grants through the use of a competitive bidding system, the Commission shall, by regulation, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. The Commission shall, directly or by contract, provide for the design and conduct

(for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round. In identifying classes of licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall include safeguards to protect the public interest in the use of the spectrum and shall seek to promote the purposes specified in section 151 of this title and the following objectives:

(A) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

(B) promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women;

(C) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource;

(D) efficient and intensive use of the electromagnetic spectrum;

(E) ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed—

(i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and

(ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services; and

(F) for any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)), the recovery of 110 percent of estimated relocation costs as provided to the Commission pursuant to section 113(g)(4) of such Act.

(4) Contents of regulations

In prescribing regulations pursuant to paragraph (3), the Commission shall—

(A) consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services;

(C) consistent with the public interest, convenience, and necessity, the purposes of this chapter, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services;

(D) ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences, and other procedures;

(E) require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits; and

(F) prescribe methods by which a reasonable reserve price will be required, or a minimum bid will be established, to obtain any license or permit being assigned pursuant to the competitive bidding, unless the Commission determines that such a reserve price or minimum bid is not in the public interest.

(5) Bidder and licensee qualification

No person shall be permitted to participate in a system of competitive bidding pursuant to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) of this section and sections 308(b) and 310 of this title. Consistent with the objectives described in paragraph (3), the Commission shall, by regulation, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) of this section for the resolution of any substantial and material issues of fact concerning qualifications.

(6) Rules of construction

Nothing in this subsection, or in the use of competitive bidding, shall—

(A) alter spectrum allocation criteria and procedures established by the other provisions of this chapter;

(B) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 606 of this title, or any other provision of this chapter (other than subsections (d)(2) and (e) of this section);

(C) diminish the authority of the Commission under the other provisions of this chapter to regulate or reclaim spectrum licenses;

(D) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection;

(E) be construed to relieve the Commission of the obligation in the public interest to continue to use engineering solutions, negotiation, threshold qualifications, service regulations, and other means in order to avoid mutual exclusivity in application and licensing proceedings;

(F) be construed to prohibit the Commission from issuing nationwide, regional, or local licenses or permits;

(G) be construed to prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology; or

(H) be construed to relieve any applicant for a license or permit of the obligation to pay charges imposed pursuant to section 158 of this title.

(7) Consideration of revenues in public interest determinations

(A) Consideration prohibited

In making a decision pursuant to section 303(c) of this title to assign a band of frequencies to a use for which licenses or permits will be issued pursuant to this subsection, and in prescribing regulations pursuant to paragraph (4)(C) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

(B) Consideration limited

In prescribing regulations pursuant to paragraph (4)(A) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

(C) Consideration of demand for spectrum not affected

Nothing in this paragraph shall be construed to prevent the Commission from continuing to consider consumer demand for spectrum-based services.

(8) Treatment of revenues

(A) General rule

Except as provided in subparagraphs (B), (D), and (E), all proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31.

(B) Retention of revenues

Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this subsection. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Such offsetting collections are authorized to remain available until expended. No sums may be retained under this subparagraph during any fiscal year beginning after September 30, 1998, if the annual report of the Commission under section 154(k) of this title for the second preceding fiscal year fails to include in the itemized statement required by paragraph (3) of such section a statement of each expenditure made for purposes of conducting competitive bidding under this subsection during such second preceding fiscal year.

(C) Deposit and use of auction escrow accounts

Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of the Treasury). Within 45 days following the conclusion of the competitive bidding—

(i) the deposits of successful bidders shall be paid to the Treasury, except as otherwise provided in subparagraph (E)(ii);

(ii) the deposits of unsuccessful bidders shall be returned to such bidders; and

(iii) the interest accrued to the account shall be transferred to the Telecommunications Development Fund established pursuant to section 614 of this title.

(D) Disposition of cash proceeds

Cash proceeds attributable to the auction of any eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall be deposited in the Spectrum Relocation Fund established under section 118 of such Act [47 U.S.C. 928], and shall be available in accordance with that section.

(E) Transfer of receipts

(i) Establishment of Fund

There is established in the Treasury of the United States a fund to be known as the Digital Television Transition and Public Safety Fund.

(ii) Proceeds for funds

Notwithstanding subparagraph (A), the proceeds (including deposits and upfront payments from successful bidders) from the use of a competitive bidding system under this subsection with respect to recovered analog spectrum shall be deposited in the Digital Television Transition and Public Safety Fund.

(iii) Transfer of amount to Treasury

On September 30, 2009, the Secretary shall transfer $7,363,000,000 from the Digi-

tal Television Transition and Public Safety Fund to the general fund of the Treasury.

(iv) Recovered analog spectrum

For purposes of clause (i), the term ''recovered analog spectrum'' has the meaning provided in paragraph (15)(C)(vi).

(9) Use of former Government spectrum

The Commission shall, not later than 5 years after August 10, 1993, issue licenses and permits pursuant to this subsection for the use of bands of frequencies that—

(A) in the aggregate span not less than 10 megahertz; and

(B) have been reassigned from Government use pursuant to part B of the National Telecommunications and Information Administration Organization Act [47 U.S.C. 921 et seq.].

(10) Authority contingent on availability of additional spectrum

(A) Initial conditions

The Commission's authority to issue licenses or permits under this subsection shall not take effect unless—

(i) the Secretary of Commerce has submitted to the Commission the report required by section 113(d)(1) of the National Telecommunications and Information Administration Organization Act [47 U.S.C. 923(d)(1)];

(ii) such report recommends for immediate reallocation bands of frequencies that, in the aggregate, span not less than 50 megahertz;

(iii) such bands of frequencies meet the criteria required by section 113(a) of such Act [47 U.S.C. 923(a)]; and

(iv) the Commission has completed the rulemaking required by section 332(c)(1)(D) of this title.

(B) Subsequent conditions

The Commission's authority to issue licenses or permits under this subsection on and after 2 years after August 10, 1993, shall cease to be effective if—

(i) the Secretary of Commerce has failed to submit the report required by section 113(a) of the National Telecommunications and Information Administration Organization Act [47 U.S.C. 923(a)];

(ii) the President has failed to withdraw and limit assignments of frequencies as required by paragraphs (1) and (2) of section 114(a) of such Act [47 U.S.C. 924(a)];

(iii) the Commission has failed to issue the regulations required by section 115(a) of such Act [47 U.S.C. 925(a)];

(iv) the Commission has failed to complete and submit to Congress, not later than 18 months after August 10, 1993, a study of current and future spectrum needs of State and local government public safety agencies through the year 2010, and a specific plan to ensure that adequate frequencies are made available to public safety licensees; or

(v) the Commission has failed under section 332(c)(3) of this title to grant or deny within the time required by such section any petition that a State has filed within 90 days after August 10, 1993;

until such failure has been corrected.

(11) Termination

The authority of the Commission to grant a license or permit under this subsection shall expire September 30, 2012.

(12) Evaluation

Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

(A) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection;

(B) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

(C) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

(D) evaluating whether and to what extent—

(i) competitive bidding significantly improved the efficiency and effectiveness of the process for granting radio spectrum licenses;

(ii) competitive bidding facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market;

(iii) competitive bidding methodologies have secured prompt delivery of service to rural areas and have adequately addressed the needs of rural spectrum users; and

(iv) small businesses, rural telephone companies, and businesses owned by members of minority groups and women were able to participate successfully in the competitive bidding process; and

(E) recommending any statutory changes that are needed to improve the competitive bidding process.

(13) Recovery of value of public spectrum in connection with pioneer preferences

(A) In general

Notwithstanding paragraph (6)(G), the Commission shall not award licenses pursuant to a preferential treatment accorded by the Commission to persons who make significant contributions to the development of a new telecommunications service or technology, except in accordance with the requirements of this paragraph.

(B) Recovery of value

The Commission shall recover for the public a portion of the value of the public spectrum resource made available to such person by requiring such person, as a condition for receipt of the license, to agree to pay a sum determined by—

(i) identifying the winning bids for the licenses that the Commission determines are most reasonably comparable in terms of bandwidth, scope of service area, usage

restrictions, and other technical characteristics to the license awarded to such person, and excluding licenses that the Commission determines are subject to bidding anomalies due to the award of preferential treatment;

(ii) dividing each such winning bid by the population of its service area (hereinafter referred to as the per capita bid amount);

(iii) computing the average of the per capita bid amounts for the licenses identified under clause (i);

(iv) reducing such average amount by 15 percent; and

(v) multiplying the amount determined under clause (iv) by the population of the service area of the license obtained by such person.

(C) Installments permitted

The Commission shall require such person to pay the sum required by subparagraph (B) in a lump sum or in guaranteed installment payments, with or without royalty payments, over a period of not more than 5 years.

(D) Rulemaking on pioneer preferences

Except with respect to pending applications described in clause (iv) of this subparagraph, the Commission shall prescribe regulations specifying the procedures and criteria by which the Commission will evaluate applications for preferential treatment in its licensing processes (by precluding the filing of mutually exclusive applications) for persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service. Such regulations shall—

(i) specify the procedures and criteria by which the significance of such contributions will be determined, after an opportunity for review and verification by experts in the radio sciences drawn from among persons who are not employees of the Commission or by any applicant for such preferential treatment;

(ii) include such other procedures as may be necessary to prevent unjust enrichment by ensuring that the value of any such contribution justifies any reduction in the amounts paid for comparable licenses under this subsection;

(iii) be prescribed not later than 6 months after December 8, 1994;

(iv) not apply to applications that have been accepted for filing on or before September 1, 1994; and

(v) cease to be effective on the date of the expiration of the Commission's authority under subparagraph (F).

(E) Implementation with respect to pending applications

In applying this paragraph to any broadband licenses in the personal communications service awarded pursuant to the preferential treatment accorded by the Federal Communications Commission in the Third Report and Order in General Docket 90–314 (FCC 93–550, released February 3, 1994)—

(i) the Commission shall not reconsider the award of preferences in such Third Report and Order, and the Commission shall not delay the grant of licenses based on such awards more than 15 days following December 8, 1994, and the award of such preferences and licenses shall not be subject to administrative or judicial review;

(ii) the Commission shall not alter the bandwidth or service areas designated for such licenses in such Third Report and Order;

(iii) except as provided in clause (v), the Commission shall use, as the most reasonably comparable licenses for purposes of subparagraph (B)(i), the broadband licenses in the personal communications service for blocks A and B for the 20 largest markets (ranked by population) in which no applicant has obtained preferential treatment;

(iv) for purposes of subparagraph (C), the Commission shall permit guaranteed installment payments over a period of 5 years, subject to—

(I) the payment only of interest on unpaid balances during the first 2 years, commencing not later than 30 days after the award of the license (including any preferential treatment used in making such award) is final and no longer subject to administrative or judicial review, except that no such payment shall be required prior to the date of completion of the auction of the comparable licenses described in clause (iii); and

(II) payment of the unpaid balance and interest thereon after the end of such 2 years in accordance with the regulations prescribed by the Commission; and

(v) the Commission shall recover with respect to broadband licenses in the personal communications service an amount under this paragraph that is equal to not less than $400,000,000, and if such amount is less than $400,000,000, the Commission shall recover an amount equal to $400,000,000 by allocating such amount among the holders of such licenses based on the population of the license areas held by each licensee.

The Commission shall not include in any amounts required to be collected under clause (v) the interest on unpaid balances required to be collected under clause (iv).

(F) Expiration

The authority of the Commission to provide preferential treatment in licensing procedures (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service shall expire on August 5, 1997.

(G) Effective date

This paragraph shall be effective on December 8, 1994, and apply to any licenses is-

sued on or after August 1, 1994, by the Federal Communications Commission pursuant to any licensing procedure that provides preferential treatment (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service.

(14) Auction of recaptured broadcast television spectrum

(A) Limitations on terms of terrestrial television broadcast licenses

A full-power television broadcast license that authorizes analog television service may not be renewed to authorize such service for a period that extends beyond June 12, 2009.

(B) Spectrum reversion and resale

(i) The Commission shall—

(I) ensure that, as licenses for analog television service expire pursuant to subparagraph (A), each licensee shall cease using electromagnetic spectrum assigned to such service according to the Commission's direction; and

(II) reclaim and organize the electromagnetic spectrum in a manner consistent with the objectives described in paragraph (3) of this subsection.

(ii) Licensees for new services occupying spectrum reclaimed pursuant to clause (i) shall be assigned in accordance with this subsection.

(C) Certain limitations on qualified bidders prohibited

In prescribing any regulations relating to the qualification of bidders for spectrum reclaimed pursuant to subparagraph (B)(i), the Commission, for any license that may be used for any digital television service where the grade A contour of the station is projected to encompass the entirety of a city with a population in excess of 400,000 (as determined using the 1990 decennial census), shall not—

(i) preclude any party from being a qualified bidder for such spectrum on the basis of—

(I) the Commission's duopoly rule (47 C.F.R. 73.3555(b)); or

(II) the Commission's newspaper cross-ownership rule (47 C.F.R. 73.3555(d)); or

(ii) apply either such rule to preclude such a party that is a winning bidder in a competitive bidding for such spectrum from using such spectrum for digital television service.

(15) Commission to determine timing of auctions

(A) Commission authority

Subject to the provisions of this subsection (including paragraph (11)), but notwithstanding any other provision of law, the Commission shall determine the timing of and deadlines for the conduct of competitive bidding under this subsection, including the timing of and deadlines for qualifying for bidding; conducting auctions; collecting, depositing, and reporting revenues; and completing licensing processes and assigning licenses.

(B) Termination of portions of auctions 31 and 44

Except as provided in subparagraph (C), the Commission shall not commence or conduct auctions 31 and 44 on June 19, 2002, as specified in the public notices of March 19, 2002, and March 20, 2002 (DA 02–659 and DA 02–563).

(C) Exception

(i) Blocks excepted

Subparagraph (B) shall not apply to the auction of—

(I) the C-block of licenses on the bands of frequencies located at 710–716 megahertz, and 740–746 megahertz; or

(II) the D-block of licenses on the bands of frequencies located at 716–722 megahertz.

(ii) Eligible bidders

The entities that shall be eligible to bid in the auction of the C-block and D-block licenses described in clause (i) shall be those entities that were qualified entities, and that submitted applications to participate in auction 44, by May 8, 2002, as part of the original auction 44 short form filing deadline.

(iii) Auction deadlines for excepted blocks

Notwithstanding subparagraph (B), the auction of the C-block and D-block licenses described in clause (i) shall be commenced no earlier than August 19, 2002, and no later than September 19, 2002, and the proceeds of such auction shall be deposited in accordance with paragraph (8) not later than December 31, 2002.

(iv) Report

Within one year after June 19, 2002, the Commission shall submit a report to Congress—

(I) specifying when the Commission intends to reschedule auctions 31 and 44 (other than the blocks excepted by clause (i)); and

(II) describing the progress made by the Commission in the digital television transition and in the assignment and allocation of additional spectrum for advanced mobile communications services that warrants the scheduling of such auctions.

(v) Additional deadlines for recovered analog spectrum

Notwithstanding subparagraph (B), the Commission shall conduct the auction of the licenses for recovered analog spectrum by commencing the bidding not later than January 28, 2008, and shall deposit the proceeds of such auction in accordance with paragraph (8)(E)(ii) not later than June 30, 2008.

(vi) Recovered analog spectrum

For purposes of clause (v), the term ''recovered analog spectrum'' means the spec-

trum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television service broadcasting under paragraph (14), other than—

(I) the spectrum required by section 337 of this title to be made available for public safety services; and

(II) the spectrum auctioned prior to February 8, 2006.

(D) Return of payments

Within one month after June 19, 2002, the Commission shall return to the bidders for licenses in the A-block, B-block, and E-block of auction 44 the full amount of all upfront payments made by such bidders for such licenses.

(16) Special auction provisions for eligible frequencies

(A) Special regulations

The Commission shall revise the regulations prescribed under paragraph (4)(F) of this subsection to prescribe methods by which the total cash proceeds from any auction of eligible frequencies described in section 113(g)(2) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(2)) shall at least equal 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act.

(B) Conclusion of auctions contingent on minimum proceeds

The Commission shall not conclude any auction of eligible frequencies described in section 113(g)(2) of such Act [47 U.S.C. 923(g)(2)] if the total cash proceeds attributable to such spectrum are less than 110 percent of the total estimated relocation costs provided to the Commission pursuant to section 113(g)(4) of such Act. If the Commission is unable to conclude an auction for the foregoing reason, the Commission shall cancel the auction, return within 45 days after the auction cancellation date any deposits from participating bidders held in escrow, and absolve such bidders from any obligation to the United States to bid in any subsequent reauction of such spectrum.

(C) Authority to issue prior to deauthorization

In any auction conducted under the regulations required by subparagraph (A), the Commission may grant a license assigned for the use of eligible frequencies prior to the termination of an eligible Federal entity's authorization. However, the Commission shall condition such license by requiring that the licensee cannot cause harmful interference to such Federal entity until such entity's authorization has been terminated by the National Telecommunications and Information Administration.

(k) Broadcast station renewal procedures

(1) Standards for renewal

If the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, with respect to that station, during the preceding term of its license—

(A) the station has served the public interest, convenience, and necessity;

(B) there have been no serious violations by the licensee of this chapter or the rules and regulations of the Commission; and

(C) there have been no other violations by the licensee of this chapter or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

(2) Consequence of failure to meet standard

If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (3), or grant such application on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.

(3) Standards for denial

If the Commission determines, after notice and opportunity for a hearing as provided in subsection (e) of this section, that a licensee has failed to meet the requirements specified in paragraph (1) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

(A) issue an order denying the renewal application filed by such licensee under section 308 of this title; and

(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 of this title specifying the channel or broadcasting facilities of the former licensee.

(4) Competitor consideration prohibited

In making the determinations specified in paragraph (1) or (2), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.

(*l*) Applicability of competitive bidding to pending comparative licensing cases

With respect to competing applications for initial licenses or construction permits for commercial radio or television stations that were filed with the Commission before July 1, 1997, the Commission shall—

(1) have the authority to conduct a competitive bidding proceeding pursuant to subsection (j) of this section to assign such license or permit;

(2) treat the persons filing such applications as the only persons eligible to be qualified bidders for purposes of such proceeding; and

(3) waive any provisions of its regulations necessary to permit such persons to enter an agreement to procure the removal of a conflict between their applications during the 180-day period beginning on August 5, 1997.

(June 19, 1934, ch. 652, title III, § 309, 48 Stat. 1085; July 16, 1952, ch. 879, § 7, 66 Stat. 715; Mar. 26, 1954, ch. 110, 68 Stat. 35; Jan. 20, 1956, ch. 1, 70

Stat. 3; Pub. L. 86–752, § 4(a), Sept. 13, 1960, 74 Stat. 889; Pub. L. 88–306, May 14, 1964, 78 Stat. 193; Pub. L. 88–307, May 14, 1964, 78 Stat. 194; Pub. L. 97–35, title XII, § 1242(a), Aug. 13, 1981, 95 Stat. 736; Pub. L. 97–259, title I, §§ 114, 115, Sept. 13, 1982, 96 Stat. 1094; Pub. L. 98–549, § 6(b)(1), Oct. 30, 1984, 98 Stat. 2804; Pub. L. 103–66, title VI, § 6002(a), (b)(1), Aug. 10, 1993, 107 Stat. 387, 392; Pub. L. 103–414, title III, §§ 303(a)(16), (17), 304(a)(9), Oct. 25, 1994, 108 Stat. 4295, 4297; Pub. L. 103–465, title VIII, § 801, Dec. 8, 1994, 108 Stat. 5050; Pub. L. 104–104, title II, § 204(a), title IV, § 403(j), title VII, §§ 707(a), 710(c), Feb. 8, 1996, 110 Stat. 112, 131, 154, 161; Pub. L. 105–33, title III, §§ 3002(a)(1)–(3), 3003, Aug. 5, 1997, 111 Stat. 258, 260, 265; Pub. L. 107–195, § 3(a), (b)(1), June 19, 2002, 116 Stat. 716, 717; Pub. L. 108–494, title II, § 203, Dec. 23, 2004, 118 Stat. 3993; Pub. L. 109–171, title III, §§ 3002(a), 3003, 3004, Feb. 8, 2006, 120 Stat. 21, 22; Pub. L. 111–4, §§ 2(b)(2), 5, Feb. 11, 2009, 123 Stat. 112, 114.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (h), (j)(4)(C), (6), and (k)(1), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

The National Telecommunications and Information Administration Organization Act, referred to in subsec. (j)(9)(B), is title I of Pub. L. 102–538, Oct. 27, 1992, 106 Stat. 3533, as amended. Part B of the Act is classified generally to subchapter II (§ 921 et seq.) of chapter 8 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

AMENDMENTS

2009—Subsec. (j)(11). Pub. L. 111–4, § 5, substituted ''2012'' for ''2011''.

Subsec. (j)(14)(A). Pub. L. 111–4, § 2(b)(2), substituted ''June 12, 2009'' for ''February 17, 2009''.

2006—Subsec. (j)(8)(A). Pub. L. 109–171, § 3004(1), substituted ''subparagraphs (B), (D), and (E)'' for ''subparagraph (B) or subparagraph (D)''.

Subsec. (j)(8)(C)(i). Pub. L. 109–171, § 3004(2), inserted '', except as otherwise provided in subparagraph (E)(ii)'' before semicolon at end.

Subsec. (j)(8)(E). Pub. L. 109–171, § 3004(3), added subpar. (E).

Subsec. (j)(11). Pub. L. 109–171, § 3003(b), substituted ''2011'' for ''2007''.

Subsec. (j)(14)(A). Pub. L. 109–171, § 3002(a)(1), inserted ''full-power'' before ''television broadcast license'' and substituted ''February 17, 2009'' for ''December 31, 2006''.

Subsec. (j)(14)(B). Pub. L. 109–171, § 3002(a)(2), (5), redesignated subpar. (C) as (B) and struck out former subpar. (B) which related to requirement of Commission to extend renewal period upon certain findings.

Subsec. (j)(14)(C). Pub. L. 109–171, § 3002(a)(5), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Subsec. (j)(14)(C)(i)(I). Pub. L. 109–171, § 3002(a)(3), struck out ''or (B)'' after ''pursuant to subparagraph (A)''.

Subsec. (j)(14)(D). Pub. L. 109–171, § 3002(a)(5), redesignated subpar. (D) as (C).

Pub. L. 109–171, § 3002(a)(4), substituted ''subparagraph (B)(i)'' for ''subparagraph (C)(i)'' in introductory provisions.

Subsec. (j)(15). Pub. L. 109–171, § 3003(a)(2), added cls. (v) and (vi) to subpar. (C).

Pub. L. 109–171, § 3003(a)(1), redesignated par. (15) relating to special auction provisions for eligible frequencies as (16).

Subsec. (j)(16). Pub. L. 109–171, § 3003(a)(1), redesignated par. (15) relating to special auction provisions for eligible frequencies as (16).

2004—Subsec. (j)(3)(F). Pub. L. 108–494, § 203(a), added subpar. (F).

Subsec. (j)(8)(A). Pub. L. 108–494, § 203(c)(1), inserted ''or subparagraph (D)'' after ''subparagraph (B)''.

Subsec. (j)(8)(D). Pub. L. 108–494, § 203(c)(2), added subpar. (D).

Subsec. (j)(15). Pub. L. 108–494, § 203(b), added par. (15) relating to special auction provisions for eligible frequencies.

2002—Subsec. (j)(14)(C)(ii). Pub. L. 107–195, § 3(b)(1), struck out at end ''The Commission shall complete the assignment of such licenses, and report to the Congress the total revenues from such competitive bidding, by September 30, 2002.''

Subsec. (j)(15). Pub. L. 107–195, § 3(a), added par. (15).

1997—Subsec. (i)(1). Pub. L. 105–33, § 3002(a)(2)(A), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''If—

''(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

''(B) the Commission has determined that the use is not described in subsection (j)(2)(A) of this section;

then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.''

Subsec. (i)(5). Pub. L. 105–33, § 3002(a)(2)(B), added par. (5).

Subsec. (j)(1), (2). Pub. L. 105–33, § 3002(a)(1)(A), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for filing for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority, subject to paragraph (10), to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection.

''(2) USES TO WHICH BIDDING MAY APPLY.—A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

''(A) the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return for which the licensee—

''(i) enables those subscribers to receive communications signals that are transmitted utilizing frequencies on which the licensee is licensed to operate; or

''(ii) enables those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and

''(B) a system of competitive bidding will promote the objectives described in paragraph (3).''

Subsec. (j)(3). Pub. L. 105–33, § 3002(a)(1)(B)(i), inserted after second sentence of introductory provisions ''The Commission shall, directly or by contract, provide for the design and conduct (for purposes of testing) of competitive bidding using a contingent combinatorial bidding system that permits prospective bidders to bid on combinations or groups of licenses in a single bid and to enter multiple alternative bids within a single bidding round.''

Subsec. (j)(3)(E). Pub. L. 105–33, § 3002(a)(1)(B)(ii)–(iv), added subpar. (E).

Subsec. (j)(4)(F). Pub. L. 105–33, § 3002(a)(1)(C), added subpar. (F).

Subsec. (j)(8)(B). Pub. L. 105–33, § 3002(a)(1)(D), struck out ''Any funds appropriated to the Commission for fiscal years 1994 through 1998 for the purpose of assigning licenses using random selection under subsection (i) of this section shall be used by the Commission to implement this subsection.'' after ''quarterly basis.'' and inserted at end ''No sums may be retained under this subparagraph during any fiscal year beginning after Sep-

tember 30, 1998, if the annual report of the Commission under section 154(k) of this title for the second preceding fiscal year fails to include in the itemized statement required by paragraph (3) of such section a statement of each expenditure made for purposes of conducting competitive bidding under this subsection during such second preceding fiscal year.''

Subsec. (j)(11). Pub. L. 105–33, § 3002(a)(1)(E), substituted ''2007'' for ''1998''.

Subsec. (j)(13)(F). Pub. L. 105–33, § 3002(a)(1)(F), substituted ''August 5, 1997'' for ''September 30, 1998''.

Subsec. (j)(14). Pub. L. 105–33, § 3003, added par. (14).

Subsec. (*l*). Pub. L. 105–33, § 3002(a)(3), added subsec. (*l*).

1996—Subsec. (b)(2)(A) to (G). Pub. L. 104–104, § 403(j), redesignated subpars. (B) to (G) as (A) to (F), respectively, and struck out former subpar. (A) which read as follows: ''fixed point-to-point microwave stations (exclusive of control and relay stations used as integral parts of mobile radio systems),''.

Subsec. (d). Pub. L. 104–104, § 204(a)(2), inserted ''(or subsection (k) of this section in the case of renewal of any broadcast station license)'' after ''with subsection (a) of this section'' wherever appearing.

Subsec. (j)(8)(B). Pub. L. 104–104, § 710(c), inserted at end ''Such offsetting collections are authorized to remain available until expended.''

Subsec. (j)(8)(C). Pub. L. 104–104, § 707(a), added subpar. (C).

Subsec. (k). Pub. L. 104–104, § 204(a)(1), added subsec. (k).

1994—Subsec. (c)(2)(F). Pub. L. 103–414, § 303(a)(16), substituted ''section 325(c)'' for ''section 325(b)''.

Subsec. (i)(4)(A). Pub. L. 103–414, § 304(a)(9), which directed substitution of ''The Commission shall'' for ''The commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall'', was executed by making the substitution for ''The Commission, not later than 180 days after the date of the enactment of the Communications Amendments Act of 1982, shall'', which for purposes of codification had been translated as ''The Commission, not later than 180 days after September 13, 1982, shall'', to reflect the probable intent of Congress and the amendment by Pub. L. 103–414, § 303(a)(17). See below.

Pub. L. 103–414, § 303(a)(17), substituted ''date of the enactment of the Communications Amendments Act of 1982'' for ''date of the enactment of the Communications Technical Amendments Act of 1982'', which for purposes of codification had been translated as ''September 13, 1982'', thus resulting in no change in text.

Subsec. (j)(13). Pub. L. 103–465 added par. (13).

1993—Subsec. (i). Pub. L. 103–66, § 6002(b)(1), inserted subsec. heading, added par. (1), struck out former par. (1), and in par. (4), added subpar. (C). Prior to amendment, par. (1) read as follows: ''If there is more than one application for any initial license or construction permit which will involve any use of the electromagnetic spectrum, then the Commission, after determining that each such application is acceptable for filing, shall have authority to grant such license or permit to a qualified applicant through the use of a system of random selection.''

Subsec. (j). Pub. L. 103–66, § 6002(a), added subsec. (j).

1984—Subsec. (h). Pub. L. 98–549 substituted ''section 706'' for ''section 606'' in the original to accommodate renumbering of sections in subchapter VI (section 601 et seq.) of this chapter by section 6(a) of Pub. L. 98–549. Because both sections translate as ''section 606 of this title'', the amendment by section 6(b)(1) of Pub. L. 98–549 resulted in no change in text.

1982—Subsec. (f). Pub. L. 97–259, § 114, substituted ''temporary'' for ''emergency'' wherever appearing, ''additional periods'' for ''one additional period'', and ''180 days'' for ''ninety days'' wherever appearing.

Subsec. (i)(1). Pub. L. 97–259, § 115(a), substituted ''application'' for ''applicant'' after ''more than one'', and ''that each such application is acceptable for filing'' for ''the qualifications of each such applicant under section 308(b) of this title''.

Subsec. (i)(2). Pub. L. 97–259, § 115(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The determination of the Commission under paragraph (1) with respect to the qualifications of applicants for an initial license or construction permit shall be made after notice and opportunity for a hearing, except that the provisions of section 409(c)(2) of this title shall not apply in the case of any such determination.''

Subsec. (i)(3)(A). Pub. L. 97–259, § 115(c)(1), substituted ''used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group'' for '', groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties will be granted significant preferences''.

Subsec. (i)(3)(C). Pub. L. 97–259, § 115(c)(2), added subpar. (C).

Subsec. (i)(4)(A). Pub. L. 97–259, § 115(d), substituted ''September 13, 1982,'' for ''August 13, 1981,''.

1981—Subsec. (i). Pub. L. 97–35 added subsec. (i).

1964—Subsec. (c)(2)(G). Pub. L. 88–307 inserted ''not to exceed sixty days''.

Subsec. (e). Pub. L. 88–306 substituted ''not more than thirty days after publication of the hearing issues or any substantial amendment thereto in the Federal Register'' for ''at any time not less than ten days prior to the date of hearing''.

1960—Pub. L. 86–752 amended section generally to revise pre-grant procedure, and, among other changes, a public notice was substituted for a mandatory notice to applicants and interested parties before hearings upon applications; the Commission was required to hold applications for 30 days before acting upon them without hearings; interested parties were permitted to file petitions to deny applications before the Commission acted upon them without hearings, in lieu of 30 days after applications were granted; interested parties were required to support their petitions with ''specific'' allegations of fact; the Commission was permitted to dispense with formal hearings when there are ''no substantial or material questions of fact,'' subject to a requirement that it issue a ''concise statement of the reasons'' for its action.

1956—Subsec. (c). Act Jan. 20, 1956, struck out hearings with respect to facts which, even if true, would not be grounds for setting aside the Commission's grant; gave the Commission discretion to keep in effect the protested authorization but required the Commission to affirmatively find and set forth that the public interest requires grant to remain in effect; and authorized Commission to redraft issues urged by protestant in accordance with the facts alleged in the protest.

1954—Subsec. (c). Act Mar. 26, 1954, substituted ''thirty days'' for ''fifteen days'' in fourth sentence.

1952—Act July 16, 1952, amended section generally to set forth procedure to be followed in cases of denial of applications.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 3002(a)(5) of Pub. L. 105–33 provided that: ''Except as otherwise provided therein, the amendments made by this subsection [amending this section] are effective on July 1, 1997.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 204(a) of Pub. L. 104–104 applicable to applications filed after May 1, 1995, see section 204(c) of Pub. L. 104–104, set out as a note under section 308 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–549 effective 60 days after Oct. 30, 1984, except where otherwise expressly pro-

vided, see section 9(a) of Pub. L. 98–549, set out as a note under section 521 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 4(d)(1)–(3) of Pub. L. 86–752 provided that:

''(1) Subsections (a) and (b) of this section [amending this section and section 319 of this title] shall take effect ninety days after the date of the enactment of this Act [Sept. 13, 1960].

''(2) Section 309 of the Communications Act of 1934 [this section] (as amended by subsection (a) of this section) shall apply to any application to which section 308 of such Act [section 308 of this title] applies (A) which is filed on or after the effective date of subsection (a) of this section, (B) which is filed before such effective date, but is substantially amended on or after such effective date, or (C) which is filed before such effective date and is not substantially amended on or after such effective date, but with respect to which the Commission by rule provides reasonable opportunity to file petitions to deny in accordance with section 309 of such Act (as amended by subsection (a) of this section) [this section].

''(3) Section 309 of the Communications Act of 1934 [this section], as in effect immediately before the effective date of subsection (a) of this section, shall, on and after such effective date, apply only to applications to which section 308 of such Act [section 308 of this title] apply which are filed before such effective date and not substantially amended on or after such effective date and with respect to which the Commission does not permit petitions to deny to be filed as provided in clause (C) of paragraph (2) of this subsection.''

DIGITAL TELEVISION TRANSITION AND PUBLIC SAFETY

Pub. L. 111–4, § 4, Feb. 11, 2009, 123 Stat. 113, provided that:

''(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act [amending this section and section 337 of this title, enacting provisions set out as notes under this section and section 609 of this title, and amending provisions set out as notes under this section] is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 [section 3002(b) of Pub. L. 109–171, set out below] for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act [Feb. 11, 2009], including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007).

''(b) PUBLIC SAFETY RADIO SERVICES.—Nothing in this Act, or the amendments made by this Act, shall prevent a public safety service licensee from commencing operations consistent with the terms of its license on spectrum recovered as a result of the voluntary cessation of broadcasting in the analog or digital television service pursuant to subsection (a). Any such public safety use shall be subject to the relevant Federal Communications Commission rules and regulations in effect on the date of enactment of this Act [Feb. 11, 2009], including section 90.545 of the Commission's rules (47 C.F.R. § 90.545).

''(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications and Information Administration shall, not later than 30 days after the date of enactment of this Act [Feb. 11, 2009], each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.''

Pub. L. 110–459, Dec. 23, 2008, 122 Stat. 5121, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Short-term Analog Flash and Emergency Readiness Act'.

''SEC. 2. COMMISSION ACTION REQUIRED.

''(a) PROGRAM REQUIRED.—Notwithstanding any other provision of law, the Federal Communications Commission shall, not later than January 15, 2009, develop and implement a program to encourage and permit, to the extent technically feasible and subject to such limitations as the Commission finds to be consistent with the public interest and the requirements of this Act, the broadcasting in the analog television service of only the public safety information and digital transition information specified in subsection (b) during the 30-day period beginning on the day after the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 [section 3002(b) of Pub. L. 109–171, set out below] for termination of all licenses for full-power television stations in the analog television service and the cessation of broadcasting by full-power stations in the analog television service.

''(b) INFORMATION REQUIRED.—The program required by subsection (a) shall provide for the broadcast of—

''(1) emergency information, including critical details regarding the emergency, as broadcast or required to be broadcast by full-power stations in the digital television service;

''(2) information, in both English and Spanish, and accessible to persons with disabilities, concerning—

''(A) the digital television transition, including the fact that a transition has taken place and that additional action is required to continue receiving television service, including emergency notifications; and

''(B) the steps required to enable viewers to receive such emergency information via the digital television service and to convert to receiving digital television service, including a phone number and Internet address by which help with such transition may be obtained in both English and Spanish; and

''(3) such other information related to consumer education about the digital television transition or public health and safety or emergencies as the Commission may find to be consistent with the public interest.

''SEC. 3. LIMITATIONS.

''In designing the program required by this Act, the Commission shall—

''(1) take into account market-by-market needs, based upon factors such as channel and transmitter availability;

''(2) ensure that broadcasting of the program specified in section 2(b) will not cause harmful interference with signals in the digital television service;

''(3) not require the analog television service signals broadcast under this Act to be retransmitted or otherwise carried pursuant to section 325(b), 338, 339, 340, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 325(b), 338, 339, 340, 614 [534], or 615 [535]);

''(4) take into consideration broadcasters' digital power levels and transition and coordination plans that already have been adopted with respect to cable systems and satellite carriers' systems;

''(5) prohibit any broadcast of analog television service signals under section 2(b) on any spectrum that is approved or pending approval by the Commission to be used for public safety radio services, including television channels 14-20; and

''(6) not include the analog spectrum between channels 52 and 69, inclusive (between frequencies 698 and 806 megahertz, inclusive) reclaimed from analog television broadcasting pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

''SEC. 4. DEFINITIONS.

''As used in this Act, the term 'emergency information' has the meaning such term has under part 79 of the regulations of the Federal Communications Commission (47 C.F.R. part 79).''

Pub. L. 109–171, title III, Feb. 8, 2006, 120 Stat. 21, as amended by Pub. L. 110–53, title XXII, § 2201(a), title XXIII, § 2302, Aug. 3, 2007, 121 Stat. 537, 543; Pub. L. 110–295, § 2, July 30, 2008, 122 Stat. 2972; Pub. L. 111–4, §§ 2(a), (b)(1), 3(a)–(c), Feb. 11, 2009, 123 Stat. 112, 113, provided that:

''SEC. 3001. SHORT TITLE; DEFINITION.

''(a) SHORT TITLE.—This title may be cited as the 'Digital Television Transition and Public Safety Act of 2005'.

''(b) DEFINITION.—As used in this Act [probably should be ''this title''], the term 'Assistant Secretary' means the Assistant Secretary for Communications and Information of the Department of Commerce.

''SEC. 3002. ANALOG SPECTRUM RECOVERY: FIRM DEADLINE.

''(a) AMENDMENTS.—[Amended this section.]

''(b) TERMINATIONS OF ANALOG LICENSES AND BROADCASTING.—The Federal Communications Commission shall take such actions as are necessary—

''(1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by June 13, 2009; and

''(2) to require by that date that all broadcasting by Class A stations, whether in the analog television service or digital television service, and all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive).

''(c) CONFORMING AMENDMENTS.—[AMENDED SECTION 337 OF THIS TITLE.]

''SEC. 3003. AUCTION OF RECOVERED SPECTRUM.

[Amended this section.]

''SEC. 3004. RESERVATION OF AUCTION PROCEEDS.

[Amended this section.]

''SEC. 3005. DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

''(a) CREATION OF PROGRAM.—The Assistant Secretary shall—

''(1) implement and administer a program through which households in the United States may obtain coupons that can be applied toward the purchase of digital-to-analog converter boxes; and

''(2) make payments of not to exceed $990,000,000, in the aggregate, through fiscal year 2009 to carry out that program from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)).

''(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed $1,500,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

''(c) PROGRAM SPECIFICATIONS.—

''(1) LIMITATIONS.—

''(A) TWO-PER-HOUSEHOLD MAXIMUM.—A household may obtain coupons by making a request as required by the regulations under this section between January 1, 2008, and July 31, 2009, inclusive. The Assistant Secretary shall ensure that each requesting household redeems no more than two coupons.

''(B) NO COMBINATIONS OF COUPONS.—Two coupons may not be used in combination toward the purchase of a single digital-to-analog converter box.

''(C) DURATION.—All coupons shall expire 3 months after issuance.

''(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.

''(2) DISTRIBUTION OF COUPONS.—The Assistant Secretary shall expend not more than $100,000,000 on administrative expenses and shall ensure that the sum of—

''(A) all administrative expenses for the program, including not more than $5,000,000 for consumer education concerning the digital television transition and the availability of the digital-to-analog converter box program; and

''(B) the total maximum value of all the coupons redeemed, and issued but not expired, does not exceed $990,000,000.

''(3) USE OF ADDITIONAL AMOUNT.—If the Assistant Secretary transmits to the Committee on Energy and Commerce of the House of Representatives and Committee on Commerce, Science, and Transportation of the Senate a statement certifying that the sum permitted to be expended under paragraph (2) will be insufficient to fulfill the requests for coupons from eligible households—

''(A) paragraph (2) shall be applied—

''(i) by substituting '$160,000,000' for '$100,000,000'; and

''(ii) by substituting '$1,500,000,000' for '$990,000,000';

''(B) subsection (a)(2) shall be applied by substituting '$1,500,000,000' for '$990,000,000'; and

''(C) the additional amount permitted to be expended shall be available 60 days after the Assistant Secretary sends such statement.

''(4) COUPON VALUE.—The value of each coupon shall be $40.

''(d) DEFINITION OF DIGITAL-TO-ANALOG CONVERTER BOX.—For purposes of this section, the term 'digital-to-analog converter box' means a stand-alone device that does not contain features or functions except those necessary to enable a consumer to convert any channel broadcast in the digital television service into a format that the consumer can display on television receivers designed to receive and display signals only in the analog television service, but may also include a remote control device.

''SEC. 3006. PUBLIC SAFETY INTEROPERABLE COMMUNICATIONS.

''(a) CREATION OF PROGRAM.—The Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security—

''(1) may take such administrative action as is necessary to establish and implement—

''(A) a grant program to assist public safety agencies in the planning and coordination associated with, the acquisition of, deployment of, or training for the use of interoperable communications equipment, software and systems that—

''(i) utilize reallocated public safety spectrum for radio communication;

''(ii) enable interoperability with communications systems that can utilize reallocated public safety spectrum for radio communication; or

''(iii) otherwise improve or advance the interoperability of public safety communications systems that utilize other public safety spectrum bands; and

''(B) are used to establish and implement [sic] a strategic technology reserve to pre-position or secure interoperable communications in advance for immediate deployment in an emergency or major disaster;

''(2) shall make payments of not to exceed $1,000,000,000, in the aggregate, through fiscal year 2010 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E)

of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to carry out the grant program established under paragraph (1), of which at least $75,000,000, in the aggregate, shall be used for purposes described in paragraph (1)(B); and

''(3) shall permit any funds allocated for use under paragraph (1)(B) to be used for purposes identified under paragraph (1)(A), if the public safety agency demonstrates that it has already implemented such a strategic technology reserve or demonstrates higher priority public safety communications needs.

''(b) ELIGIBILITY.—To be eligible for assistance under the grant program established under subparagraph (a)(1)(A), an applicant shall submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require, including a detailed explanation of how assistance received under the program would be used to improve communications interoperability and ensure interoperability with other public safety agencies in an emergency or a major disaster.

''(c) CRITERIA FOR STRATEGIC TECHNOLOGY RESERVES.—

''(1) IN GENERAL.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall consider the continuing technological evolution of communications technologies and devices, with its implicit risk of obsolescence, and shall ensure, to the maximum extent feasible, that a substantial part of the reserve involves prenegotiated contracts and other arrangements for rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems), rather than the warehousing or storage of equipment and supplies currently available at the time the reserve is established.

''(2) REQUIREMENTS AND CHARACTERISTICS.—Funds provided to meet uses described in paragraph (1) shall be used in support of reserves that—

''(A) are capable of re-establishing communications when existing critical infrastructure is damaged or destroyed in an emergency or a major disaster;

''(B) include appropriate current, widely-used equipment, such as Land Mobile Radio Systems, cellular telephones and satellite-enabled equipment (and related communications service), Cells-On-Wheels, Cells-On-Light-Trucks, or other self-contained mobile cell sites that can be towed, backup batteries, generators, fuel, and computers;

''(C) include equipment on hand for the Governor of each State, key emergency response officials, and appropriate State or local personnel;

''(D) include contracts (including prenegotiated contracts) for rapid delivery of the most current technology available from commercial sources; and

''(E) include arrangements for training to ensure that personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts.

''(3) ADDITIONAL CHARACTERISTICS.—Portions of the reserve may be virtual and may include items donated on an in-kind contribution basis.

''(4) ALLOCATION OF FUNDS.—In evaluating permitted uses under subparagraph (a)(1)(B), the Assistant Secretary shall take into account barriers to immediate deployment, including time and distance, that may slow the rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems) in the event of an emergency in any State.

''(d) VOLUNTARY CONSENSUS STANDARDS.—In carrying out this section, the Assistant Secretary, in cooperation with the Secretary of Homeland Security, shall identify and, if necessary, encourage the development and implementation of, voluntary consensus standards for interoperable communications systems to the greatest extent practicable, but shall not require any such standard.

''(e) INSPECTOR GENERAL REPORT AND AUDITS.—

''(1) REPORT.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007 [Aug. 3, 2007], the Inspector General of the Department of Commerce shall conduct an annual assessment of the management of the grant program implemented under subsection (a)(1) and transmit a report containing the findings of that assessment and any recommendations related thereto to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

''(2) AUDITS.—Beginning with the first fiscal year beginning after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Inspector General of the Department of Commerce shall conduct financial audits of entities receiving grants from the program implemented under subsection (a)(1), and shall ensure that, over the course of 4 years, such audits cover recipients in a representative sample of not fewer than 25 States or territories. The results of any such audits shall be made publicly available via web site, subject to redaction as the Inspector General determines necessary to protect classified and other sensitive information.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude the use of funds under this section by any public safety agency for interim- or long-term Internet Protocol-based interoperable solutions.

''(h)[(g)] CREDIT.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed $1,000,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

''(i)[(h)] CONDITION OF GRANTS.—In order to obtain a grant under the grant program, a public safety agency shall agree to provide, from non-Federal sources, not less than 20 percent of the costs of acquiring and deploying the interoperable communications systems funded under the grant program.

''(j)[(i)] DEFINITIONS.—For purposes of this section:

''(1) PUBLIC SAFETY AGENCY.—The term 'public safety agency' means any State, local, or tribal government entity, or nongovernmental organization authorized by such entity, whose sole or principal purpose is to protect the safety of life, health, or property.

''(2) INTEROPERABLE COMMUNICATIONS SYSTEMS.—The term 'interoperable communications systems' means communications systems which enable public safety agencies to share information amongst local, State, Federal, and tribal public safety agencies in the same area via voice or data signals.

''SEC. 3007. NYC 9/11 DIGITAL TRANSITION.

''(a) FUNDS AVAILABLE.—From the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) the Assistant Secretary shall make payments of not to exceed $30,000,000, in the aggregate, which shall be available to carry out this section for fiscal years 2007 through 2008. The Assistant Secretary may borrow from the Treasury beginning October 1, 2006, such sums as may be necessary not to exceed $30,000,000 to implement and administer the program in accordance with this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

''(b) USE OF FUNDS.—The sums available under subsection (a) shall be made available by the Assistant Secretary by grant to be used to reimburse the Metropolitan Television Alliance for costs incurred in the design and deployment of a temporary digital television broadcast system to ensure that, until a permanent facility atop the Freedom Tower is constructed, the

members of the Metropolitan Television Alliance can provide the New York City area with an adequate digital television signal as determined by the Federal Communications Commission.

''(c) DEFINITIONS.—For purposes of this section:

''(1) METROPOLITAN TELEVISION ALLIANCE.—The term 'Metropolitan Television Alliance' means the organization formed by New York City television broadcast station licensees to locate new shared facilities as a result of the attacks on September 11, 2001 and the loss of use of shared facilities that housed broadcast equipment.

''(2) NEW YORK CITY AREA.—The term 'New York City area' means the five counties comprising New York City and counties of northern New Jersey in immediate proximity to New York City (Bergen, Essex, Union, and Hudson Counties).

''SEC. 3008. LOW-POWER TELEVISION AND TRANSLATOR DIGITAL-TO-ANALOG CONVERSION.

''(a) CREATION OF PROGRAM.—

''(1) IN GENERAL.—The Assistant Secretary shall make payments of not to exceed $10,000,000, in the aggregate, during the fiscal year 2008 and 2009 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each eligible low-power television station may receive compensation toward the cost of the purchase of a digital-to-analog conversion device that enables it to convert the incoming digital signal of its corresponding full-power television station to analog format for transmission on the low-power television station's analog channel. An eligible low-power television station may receive such compensation only if it submits a request for such compensation on or before June 12, 2009. Priority compensation shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

''(2) USE OF FUNDS.—As soon as practicable after the date of enactment of the DTV Transition Assistance Act [July 30, 2008], the Assistant Secretary shall make a determination, which the Assistant Secretary may adjust from time to time, with respect to whether the full amount provided under paragraph (1) will be needed for payments under that paragraph. If the Assistant Secretary determines that the full amount will not be needed for payments authorized by paragraph (1), the Assistant Secretary may use the remaining amount for consumer education and technical assistance regarding the digital television transition and the availability of the digital-to-analog converter box program (in addition to any amounts expended for such purpose under [section] 3005(c)(2)(A) of this title), including partnering with, providing grants to, and contracting with non-profit organizations or public interest groups in achieving these efforts. If the Assistant Secretary initiates such an education program, the Assistant Secretary shall develop a plan to address the educational and technical assistance needs of vulnerable populations, such as senior citizens, individuals residing in rural and remote areas, and minorities, including, where appropriate, education plans focusing on the need for analog pass-through digital converter boxes in areas served by low power or translator stations, and shall consider the speed with which these objectives can be accomplished to the greatest public benefit.

''(b) CREDIT.—The Assistant Secretary may borrow from the Treasury beginning October 1, 2006, such sums as may be necessary, but not to exceed $10,000,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

''(c) ELIGIBLE STATIONS.—For purposes of this section, the term 'eligible low-power television station' means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

''(1) that is itself broadcasting exclusively in analog format; and

''(2) that has not purchased a digital-to-analog conversion device prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005 [Feb. 8, 2006].

''SEC. 3009. LOW-POWER TELEVISION AND TRANSLATOR UPGRADE PROGRAM.

''(a) ESTABLISHMENT.—The Assistant Secretary shall make payments of not to exceed $65,000,000, in the aggregate, during fiscal years 2009 through 2012 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement and administer a program through which each licensee of an eligible low-power television station may receive reimbursement for equipment to upgrade low-power television stations from analog to digital in eligible rural communities, as that term is defined in section 610(b)(2) [601(b)(2)] of the Rural Electrification Act of 1937 [1936] (7 U.S.C. 950bb(b)(2)). Such reimbursements shall be issued to eligible stations on or after February 18, 2009. Priority reimbursements shall be given to eligible low-power television stations in which the license is held by a non-profit corporation and eligible low-power television stations that serve rural areas of fewer than 10,000 viewers.

''(b) ELIGIBLE STATIONS.—For purposes of this section, the term 'eligible low-power television station' means a low-power television broadcast station, Class A television station, television translator station, or television booster station—

''(1) that is itself broadcasting exclusively in analog format; and

''(2) that has not converted from analog to digital operations prior to the date of enactment of the Digital Television Transition and Public Safety Act of 2005 [Feb. 8, 2006].

''SEC. 3010. NATIONAL ALERT AND TSUNAMI WARNING PROGRAM.

''The Assistant Secretary shall make payments of not to exceed $156,000,000, in the aggregate, during the fiscal year 2007 through 2012 period from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement a unified national alert system capable of alerting the public, on a national, regional, or local basis to emergency situations by using a variety of communications technologies. The Assistant Secretary shall use $50,000,000 of such amounts to implement a tsunami warning and coastal vulnerability program.

''SEC. 3011. ENHANCE 911.

''(a) IN GENERAL.—The Assistant Secretary shall make payments of not to exceed $43,500,000, in the aggregate, from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to implement the ENHANCE 911 Act of 2004 [title I of Pub. L. 108–494, see Short Title of 2004 Amendment note set out under section 901 of this title].

''(b) CREDIT.—The Assistant Secretary may borrow from the Treasury, upon enactment of the 911 Modernization Act [Aug. 3, 2007], such sums as necessary, but not to exceed $43,500,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

''SEC. 3012. ESSENTIAL AIR SERVICE PROGRAM.

''(a) IN GENERAL.—If the amount appropriated to carry out the essential air service program under subchapter II of chapter 417 of title 49, United States Code, equals or exceeds $110,000,000 for fiscal year 2007 or 2008, then the Secretary of Commerce shall make $15,000,000

available, from the Digital Television Transition and Public Safety Fund established by section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)), to the Secretary of Transportation for use in carrying out the essential air service program for that fiscal year.

''(b) APPLICATION WITH OTHER FUNDS.—Amounts made available under subsection (a) for any fiscal year shall be in addition to any amounts—

''(1) appropriated for that fiscal year; or

''(2) derived from fees collected pursuant to section 45301(a)(1) of title 49, United States Code, that are made available for obligation and expenditure to carry out the essential air service program for that fiscal year.

''(c) ADVANCES.—The Secretary of Transportation may borrow from the Treasury such sums as may be necessary, but not to exceed $30,000,000 on a temporary and reimbursable basis to implement subsection (a). The Secretary of Transportation shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) and made available to the Secretary under subsection (a).

''SEC. 3013. SUPPLEMENTAL LICENSE FEES.

''In addition to any fees assessed under the Communications Act of 1934 (47 U.S.C. 151 et seq.), the Federal Communications Commission shall assess extraordinary fees for licenses in the aggregate amount of $10,000,000, which shall be deposited in the Treasury during fiscal year 2006 as offsetting receipts.''

[Pub. L. 111–4, §3(d), Feb. 11, 2009, 123 Stat. 113, provided that: ''The amendments made by this section [amending section 3005(c)(1) of Pub. L. 109–171, set out above] shall not take effect until the enactment of additional budget authority after the date of enactment of this Act [Feb. 11, 2009] to carry out the analog-to-digital converter box program under section 3005 of the Digital Television Transition and Public Safety Act of 2005 [section 3005 of Pub. L. 109–171, set out above].'']

FINDINGS

Pub. L. 107–195, §2, June 19, 2002, 116 Stat. 715, provided that: ''Congress finds the following:

''(1) Circumstances in the telecommunications market have changed dramatically since the auctioning of spectrum in the 700 megahertz band was originally mandated by Congress in 1997, raising serious questions as to whether the original deadlines, or the subsequent revision of the deadlines, are consistent with sound telecommunications policy and spectrum management principles.

''(2) No comprehensive plan yet exists for allocating additional spectrum for third-generation wireless and other advanced communications services. The Federal Communications Commission should have the flexibility to auction frequencies in the 700 megahertz band for such purposes.

''(3) The study being conducted by the National Telecommunications and Information Administration in consultation with the Department of Defense to determine whether the Department of Defense can share or relinquish additional spectrum for third generation wireless and other advanced communications services will not be completed until after the June 19th auction date for the upper 700 megahertz band, and long after the applications must be filed to participate in the auction, thereby creating further uncertainty as to whether the frequencies in the 700 megahertz band will be put to their highest and best use for the benefit of consumers.

''(4) The Federal Communications Commission is also in the process of determining how to resolve the interference problems that exist in the 800 megahertz band, especially for public safety. One option being considered for the 800 megahertz band would involve the 700 megahertz band. The Commission should not hold the 700 megahertz auction before the 800 megahertz interference issues are resolved or a tenable plan has been conceived.

''(5) The 700 megahertz band is currently occupied by television broadcasters, and will be so until the transfer to digital television is completed. This situation creates a tremendous amount of uncertainty concerning when the spectrum will be available and reduces the value placed on the spectrum by potential bidders. The encumbrance of the 700 megahertz band reduces both the amount of money that the auction would be likely to produce and the probability that the spectrum would be purchased by the entities that valued the spectrum the most and would put the spectrum to its most productive use.

''(6) The Commission's rules governing voluntary mechanisms for vacating the 700 megahertz band by broadcast stations—

''(A) produced no certainty that the band would be available for advanced mobile communications services, public safety operations, or other wireless services any earlier than the existing statutory framework provides; and

''(B) should advance the transition of digital television and must not result in the unjust enrichment of any incumbent licensee.''

COMPLIANCE WITH AUCTION AUTHORITY

Pub. L. 107–195, §4, June 19, 2002, 116 Stat. 717, provided that: ''The Federal Communications Commission shall conduct rescheduled auctions 31 and 44 prior to the expiration of the auction authority under section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)).''

PRESERVATION OF BROADCASTER OBLIGATIONS

Pub. L. 107–195, §5, June 19, 2002, 116 Stat. 717, provided that: ''Nothing in this Act [see Short Title of 2002 Amendment note set out under section 609 of this title] shall be construed to relieve television broadcast station licensees of the obligation to complete the digital television service conversion as required by section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)).''

DEADLINE FOR COLLECTION

Pub. L. 105–33, title III, §3007, Aug. 5, 1997, 111 Stat. 269, which provided that the Commission was to conduct the competitive bidding required under title III of Pub. L. 105–33, which enacted section 337 of this title, amended this section and sections 153, 303, and 923 to 925 of this title, enacted provisions set out as notes under this section and sections 153, 254, and 925 of this title, and repealed provisions set out as a note under this section, in a manner that ensured that all proceeds of such bidding would be deposited in accordance with section 309(j)(8) of this title not later than Sept. 30, 2002, was repealed by Pub. L. 107–195, §3(b)(2), June 19, 2002, 116 Stat. 717.

ADMINISTRATIVE PROCEDURES FOR SPECTRUM AUCTIONS

Section 3008 of title III of Pub. L. 105–33 provided that: ''Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for frequencies assigned under this title [enacting section 337 of this title, amending this section and sections 153, 303, and 923 to 925 of this title, enacting provisions set out as notes under this section and sections 153, 254, and 925 of this title, and repealing provisions set out as a note under this section] (or amendments made by this title) shall be granted by the Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto. Notwithstanding section 309(d)(1) of such Act (47 U.S.C. 309(d)(1)), the Commission may specify a period (no less than 5 days following issuance of such public notice) for the filing of petitions to deny any application for an instrument of authorization for such frequencies.''

DEADLINES FOR COMMISSION ACTION REGARDING COMPETITIVE BIDDING

Section 6002(d)(1), (2) of Pub. L. 103–66 provided that:

''(1) GENERAL RULEMAKING.—The Federal Communications Commission shall prescribe regulations to implement section 309(j) of the Communications Act of 1934 [47 U.S.C. 309(j)] (as added by this section) within 210 days after the date of enactment of this Act [Aug. 10, 1993].

''(2) PCS ORDERS AND LICENSING.—The Commission shall—

''(A) within 180 days after such date of enactment, issue a final report and order (i) in the matter entitled 'Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies' (ET Docket No. 92–9); and (ii) in the matter entitled 'Amendment of the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90–314; ET Docket No. 92–100); and

''(B) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.''

SPECIAL RULE REGARDING SUBSECTION (i) LICENSES AND PERMITS

Section 6002(e) of Pub. L. 103–66, which provided for exceptions to ban on Federal Communications Commission issuance of licenses and permits under section 309(i) of this title after Aug. 10, 1993, was repealed by Pub. L. 105–33, title III, § 3002(a)(4), Aug. 5, 1997, 111 Stat. 260.

AUTHORITY TO USE THE SYSTEM OF RANDOM SELECTION WITH RESPECT TO APPLICATIONS FOR INITIAL LICENSES AND CONSTRUCTION PERMITS

Section 1242(b) of Pub. L. 97–35 provided that: ''The Commission shall have authority to use the system of random selection established by the Commission under section 309(i) of the Communications Act of 1934 [subsec. (i) of this section], as added in subsection (a), with respect to any application for an initial license or construction permit which will involve any use of the electromagnetic spectrum and which—

''(1) is filed with the Commission after the date of the enactment of this Act [Aug. 13, 1981]; or

''(2) is pending before the Commission on such date of enactment but has not been designated for hearing on or before such date of enactment.''

§ 310. License ownership restrictions

(a) Grant to or holding by foreign government or representative

The station license required under this chapter shall not be granted to or held by any foreign government or the representative thereof.

(b) Grant to or holding by alien or representative, foreign corporation, etc.

No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by—

(1) any alien or the representative of any alien;

(2) any corporation organized under the laws of any foreign government;

(3) any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;

(4) any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(c) Authorization for aliens licensed by foreign governments; multilateral or bilateral agreement to which United States and foreign country are parties as prerequisite

In addition to amateur station licenses which the Commission may issue to aliens pursuant to this chapter, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a multilateral or bilateral agreement, to which the United States and the alien's government are parties, for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this chapter and of subchapter II of chapter 5, and chapter 7, of title 5 shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(d) Assignment and transfer of construction permit or station license

No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. Any such application shall be disposed of as if the proposed transferee or assignee were making application under section 308 of this title for the permit or license in question; but in acting thereon the Commission may not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee.

(e) Administration of regional concentration rules for broadcast stations

(1) In the case of any broadcast station, and any ownership interest therein, which is excluded from the regional concentration rules by reason of the savings provision for existing facilities provided by the First Report and Order adopted March 9, 1977 (docket No. 20548; 42 Fed. Reg. 16145), the exclusion shall not terminate solely by reason of changes made in the technical facilities of the station to improve its service.

(2) For purposes of this subsection, the term ''regional concentration rules'' means the provisions of sections 73.35, 73.240, and 73.636 of title 47, Code of Federal Regulations (as in effect June 1, 1983), which prohibit any party from directly or indirectly owning, operating, or controlling three broadcast stations in one or sev-

eral services where any two of such stations are within 100 miles of the third (measured city-to-city), and where there is a primary service contour overlap of any of the stations.

(June 19, 1934, ch. 652, title III, § 310, 48 Stat. 1086; July 16, 1952, ch. 879, § 8, 66 Stat. 716; Pub. L. 85–817, § 2, Aug. 28, 1958, 72 Stat. 981; Pub. L. 88–313, § 2, May 28, 1964, 78 Stat. 202; Pub. L. 92–81, § 2, Aug. 10, 1971, 85 Stat. 302; Pub. L. 93–505, § 2, Nov. 30, 1974, 88 Stat. 1576; Pub. L. 98–214, § 7, Dec. 8, 1983, 97 Stat. 1469; Pub. L. 101–396, § 8(b), Sept. 28, 1990, 104 Stat. 850; Pub. L. 104–104, title IV, § 403(k), Feb. 8, 1996, 110 Stat. 131.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

In subsec. (c), ''subchapter II of chapter 5, and chapter 7, of title 5'' substituted for ''the Administrative Procedure Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (b)(3). Pub. L. 104–104, § 403(k)(1), struck out ''of which any officer or director is an alien or'' before ''of which more''.

Subsec. (b)(4). Pub. L. 104–104, § 403(k)(2), struck out ''of which any officer or more than one-fourth of the directors are aliens, or'' after ''any other corporation''.

1990—Subsec. (c). Pub. L. 101–396 substituted ''multilateral or bilateral agreement, to which the United States and the alien's government are parties,'' for ''bilateral agreement between the United States and the alien's government''.

1983—Subsec. (e). Pub. L. 98–214 added subsec. (e).

1974—Subsec. (a). Pub. L. 93–505 added subsec. (a). Former subsec. (a), which related to granting to or holding of required station licenses by aliens, was struck out.

Subsecs. (b) to (d). Pub. L. 93–505 added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

1971—Subsec. (a). Pub. L. 92–81 inserted provisions empowering the Commission to issue licenses to certain aliens admitted to the United States for permanent residence, provided that the Commission notify the appropriate agencies of the Government of applications received for license, and that such agencies furnish to the Commission information bearing on the request's compatibility with national security.

1964—Subsec. (a). Pub. L. 88–313 empowered the Commission to issue authorizations to permit an alien licensed by his government as an amateur radio operator to operate his station, licensed by his government, in the United States, its possessions, and Puerto Rico, provided there is a bilateral agreement between the United States and the alien's government giving similar rights to United States amateur radio operators, and provided that the Commission notify appropriate agencies of our Government of any applications for authorization, and that such agencies furnish to the Commission information bearing on the request's compatibility with our national security.

1958—Subsec. (a). Pub. L. 85–817 inserted paragraph authorizing the grant of licenses for radio stations on aircraft to aliens or representatives of aliens holding pilot certificates.

1952—Subsec. (b). Act July 16, 1952, provided that construction permits and station licenses cannot be transferred, assigned, or disposed of except upon a finding by the Commission that public interest, convenience, or necessity will be served thereby, and that such transfer application will be treated the same as if made under section 308 of this title.

§ 311. Requirements as to certain applications in broadcasting service

(a) Notices of filing and hearing; form and contents

When there is filed with the Commission any application to which section 309(b)(1) of this title applies, for an instrument of authorization for a station in the broadcasting service, the applicant—

(1) shall give notice of such filing in the principal area which is served or is to be served by the station; and

(2) if the application is formally designated for hearing in accordance with section 309 of this title, shall give notice of such hearing in such area at least ten days before commencement of such hearing.

The Commission shall by rule prescribe the form and content of the notices to be given in compliance with this subsection, and the manner and frequency with which such notices shall be given.

(b) Place of hearing

Hearings referred to in subsection (a) of this section may be held at such places as the Commission shall determine to be appropriate, and in making such determination in any case the Commission shall consider whether the public interest, convenience, or necessity will be served by conducting the hearing at a place in, or in the vicinity of, the principal area to be served by the station involved.

(c) Agreement between two or more applicants; approval of Commission; pendency of application

(1) If there are pending before the Commission two or more applications for a permit for construction of a broadcasting station, only one of which can be granted, it shall be unlawful, without approval of the Commission, for the applicants or any of them to effectuate an agreement whereby one or more of such applicants withdraws his or their application or applications.

(2) The request for Commission approval in any such case shall be made in writing jointly by all the parties to the agreement. Such request shall contain or be accompanied by full information with respect to the agreement, set forth in such detail, form, and manner as the Commission shall by rule require.

(3) The Commission shall approve the agreement only if it determines that (A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement.

(4) For the purposes of this subsection an application shall be deemed to be ''pending'' before the Commission from the time such application is filed with the Commission until an order of the Commission granting or denying it is no longer subject to rehearing by the Commission or to review by any court.

(d) License for operation of station; agreement to withdraw application; approval of Commission

(1) If there are pending before the Commission an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station, only one of which can be granted, it shall be unlawful, without approval of the Commission, for the applicants or any of them to effectuate an agreement whereby one or more of such applicants withdraws his or their application or applications in exchange for the payment of money, or the transfer of assets or any other thing of value by the remaining applicant or applicants.

(2) The request for Commission approval in any such case shall be made in writing jointly by all the parties to the agreement. Such request shall contain or be accompanied by full information with respect to the agreement, set forth in such detail, form, and manner as the Commission shall require.

(3) The Commission shall approve the agreement only if it determines that (A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement.

(4) For purposes of this subsection, an application shall be deemed to be pending before the Commission from the time such application is filed with the Commission until an order of the Commission granting or denying it is no longer subject to rehearing by the Commission or to review by any court.

(June 19, 1934, ch. 652, title III, § 311, 48 Stat. 1086; July 16, 1952, ch. 879, § 9, 66 Stat. 716; Pub. L. 86–752, § 5(a), Sept. 13, 1960, 74 Stat. 892; Pub. L. 97–35, title XII, § 1243, Aug. 13, 1981, 95 Stat. 737; Pub. L. 97–259, title I, § 116, Sept. 13, 1982, 96 Stat. 1095.)

AMENDMENTS

1982—Subsec. (c)(3). Pub. L. 97–259, § 116(a), inserted provision that the Commission may not approve the agreement if it determines that a party to the agreement filed its application for the purpose of reaching or carrying out the agreement, and struck out provision that if the agreement did not contemplate a merger, but contemplated the making of any direct or indirect payment to any party thereto in consideration of his withdrawal of his application, the Commission could determine the agreement to be consistent with the public interest, convenience, or necessity only if the amount or value of such payment, as determined by the Commission, was not in excess of the aggregate amount determined by the Commission to have been legitimately and prudently expended and to be expended by such applicant in connection with preparing, filing, and advocating the granting of his application.

Subsec. (d)(1). Pub. L. 97–259, § 116(b), substituted ''an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station'' for ''two or more applications for a license granted for the operation of a broadcasting station''.

Subsec. (d)(3)(B). Pub. L. 97–259, § 116(c), struck out ''license'' after ''filed its''.

1981—Subsec. (d). Pub. L. 97–35 added subsec. (d).

1960—Pub. L. 86–752 amended section generally, substituting provisions on requirements for certain applications for broadcasting service, for provisions directing the Commission to refuse a license or permit to any person whose license had been revoked by a court under section 313 of this title.

1952—Act July 16, 1952, omitted provisions relating to monopoly.

§ 312. Administrative sanctions

(a) Revocation of station license or construction permit

The Commission may revoke any station license or construction permit—

(1) for false statements knowingly made either in the application or in any statement of fact which may be required pursuant to section 308 of this title;

(2) because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application;

(3) for willful or repeated failure to operate substantially as set forth in the license;

(4) for willful or repeated violation of, or willful or repeated failure to observe any provision of this chapter or any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States;

(5) for violation of or failure to observe any final cease and desist order issued by the Commission under this section;

(6) for violation of section 1304, 1343, or 1464 of title 18; or

(7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station, other than a non-commercial educational broadcast station, by a legally qualified candidate for Federal elective office on behalf of his candidacy.

(b) Cease and desist orders

Where any person (1) has failed to operate substantially as set forth in a license, (2) has violated or failed to observe any of the provisions of this chapter, or section 1304, 1343, or 1464 of title 18, or (3) has violated or failed to observe any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States, the Commission may order such person to cease and desist from such action.

(c) Order to show cause

Before revoking a license or permit pursuant to subsection (a) of this section, or issuing a cease and desist order pursuant to subsection (b) of this section, the Commission shall serve upon the licensee, permittee, or person involved an order to show cause why an order of revocation or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters with respect to which the Commission is inquiring and shall call upon said licensee, permittee, or person to appear before the Commission at a time and place stated in the order, but in no event less than thirty days after the receipt of such order, and give evidence upon the matter specified therein; except that where safety of life or property is involved, the Commission may provide in the order for a shorter period. If after hearing, or a waiver thereof, the Commission determines that an order of revocation or a cease and desist

order should issue, it shall issue such order, which shall include a statement of the findings of the Commission and the grounds and reasons therefor and specify the effective date of the order, and shall cause the same to be served on said licensee, permittee, or person.

(d) Burden of proof

In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission.

(e) Procedure for issuance of cease and desist order

The provisions of section 558(c) of title 5 which apply with respect to the institution of any proceeding for the revocation of a license or permit shall apply also with respect to the institution, under this section, of any proceeding for the issuance of a cease and desist order.

(f) "Willful" and "repeated" defined

For purposes of this section:

(1) The term ''willful'', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this chapter or any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States.

(2) The term ''repeated'', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

(g) Limitation on silent station authorizations

If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness. Any broadcast license revoked or terminated in Alaska in a proceeding related to broadcasting via translator, microwave, or other alternative signal delivery is reinstated.

(June 19, 1934, ch. 652, title III, §312, 48 Stat. 1086; July 16, 1952, ch. 879, §10, 66 Stat. 716; Pub. L. 86–752, §6, Sept. 13, 1960, 74 Stat. 893; Pub. L. 92–225, title I, §103(a)(2)(A), Feb. 7, 1972, 86 Stat. 4; Pub. L. 97–259, title I, §117, Sept. 13, 1982, 96 Stat. 1095; Pub. L. 104–104, title IV, §403(*l*), Feb. 8, 1996, 110 Stat. 132; Pub. L. 106–554, §1(a)(4) [div. B, title I, §148(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–251; Pub. L. 108–447, div. J, title IX [title II, §213(3)], Dec. 8, 2004, 118 Stat. 3431.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(4), (b), and (f)(1), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

In subsec. (e), ''section 558(c) of title 5'' substituted for ''section 1008(b) of title 5'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2004—Subsec. (g). Pub. L. 108–447 inserted before period at end '', except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness. Any broadcast license revoked or terminated in Alaska in a proceeding related to broadcasting via translator, microwave, or other alternative signal delivery is reinstated''.

2000—Subsec. (a)(7). Pub. L. 106–554 inserted '', other than a non-commercial educational broadcast station,'' after ''use of a broadcasting station''.

1996—Subsec. (g). Pub. L. 104–104 added subsec. (g).

1982—Subsec. (f). Pub. L. 97–259 added subsec. (f).

1972—Subsec. (a)(7). Pub. L. 92–225 added par. (7).

1960—Subsecs. (a), (b). Pub. L. 86–752 inserted provisions referring to sections 1304, 1343 and 1464 of title 18.

1952—Act July 16, 1952, amended section generally to provide for revocation of licenses and permits only for acts willfully and knowingly committed or for disregarding cease and desist orders, and to authorize the Commission to issue cease and desist orders.

REPEALS

Repeal of title I of Pub. L. 92–225, cited as a credit to this section, by Pub. L. 93–443, title II, §205(b), Oct. 15, 1974, 88 Stat. 1278, has been construed as not repealing the amendment to this section made by section 103(a)(2)(A) of such title I.

DECLINATION OF POLITICAL ADVERTISING BY EDUCATIONAL BROADCAST STATIONS

Pub. L. 106–554, §1(a)(4) [div. B, title I, §148(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–251, provided that: ''The Federal Communications Commission shall take no action against any non-commercial educational broadcast station which declines to carry a political advertisement.''

§ 312a. Revocation of operator's license used in unlawful distribution of controlled substances

The Federal Communications Commission may revoke any private operator's license issued to any person under the Communications Act of 1934 (47 U.S.C. 151 et seq.) who is found to have willfully used said license for the purpose of distributing, or assisting in the distribution of, any controlled substance in violation of any provision of Federal law. In addition, the Federal Communications Commission may, upon the request of an appropriate Federal law enforcement agency, assist in the enforcement of Federal law prohibiting the use or distribution of any controlled substance where communications equipment within the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 is willfully being used for purposes of distributing, or assisting in the distribution of, any such substance.

(Pub. L. 99–570, title III, §3451, Oct. 27, 1986, 100 Stat. 3207–103.)

REFERENCES IN TEXT

The Communications Act of 1934, referred to in text, is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended,

which is classified principally to this chapter (§ 151 et seq.). For complete classification of this Act to the Code, see section 609 of this title and Tables.

CODIFICATION

Section was enacted as part of the Anti-Drug Abuse Act of 1986, and also as part of the National Drug Interdiction Improvement Act of 1986, and not as part of the Communications Act of 1934 which comprises this chapter.

§ 313. Application of antitrust laws to manufacture, sale, and trade in radio apparatus

(a) Revocation of licenses

All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade are declared to be applicable to the manufacture and sale of and to trade in radio apparatus and devices entering into or affecting interstate or foreign commerce and to interstate or foreign radio communications. Whenever in any suit, action, or proceeding, civil or criminal, brought under the provisions of any of said laws or in any proceedings brought to enforce or to review findings and orders of the Federal Trade Commission or other governmental agency in respect of any matters as to which said Commission or other governmental agency is by law authorized to act, any licensee shall be found guilty of the violation of the provisions of such laws or any of them, the court, in addition to the penalties imposed by said laws, may adjudge, order, and/or decree that the license of such licensee shall, as of the date the decree or judgment becomes finally effective or as of such other date as the said decree shall fix, be revoked and that all rights under such license shall thereupon cease: *Provided, however*, That such licensee shall have the same right of appeal or review as is provided by law in respect of other decrees and judgments of said court.

(b) Refusal of licenses and permits

The Commission is hereby directed to refuse a station license and/or the permit hereinafter required for the construction of a station to any person (or to any person directly or indirectly controlled by such person) whose license has been revoked by a court under this section.

(June 19, 1934, ch. 652, title III, § 313, 48 Stat. 1087; Pub. L. 86–752, § 5(b), Sept. 13, 1960, 74 Stat. 893.)

AMENDMENTS

1960—Pub. L. 86–752 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF FUNCTIONS

All executive and administrative functions of the Federal Trade Commission were, with certain exceptions, transferred to the Chairman of such Commission by Reorg. Plan No. 8 of 1950, § 1, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264, set out in the Appendix to Title 5, Government Organization and Employees.

§ 314. Competition in commerce; preservation

After the effective date of this chapter no person engaged directly, or indirectly through any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such person, or through an agent, or otherwise, in the business of transmitting and/or receiving for hire energy, communications, or signals by radio in accordance with the terms of the license issued under this chapter, shall by purchase, lease, construction, or otherwise, directly or indirectly, acquire, own, control, or operate any cable or wire telegraph or telephone line or system between any place in any State, Territory, or possession of the United States or in the District of Columbia, and any place in any foreign country, or shall acquire, own, or control any part of the stock or other capital share or any interest in the physical property and/or other assets of any such cable, wire, telegraph, or telephone line or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or unlawfully to create monopoly in any line of commerce; nor shall any person engaged directly, or indirectly through any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such person, or through an agent, or otherwise, in the business of transmitting and/or receiving for hire messages by any cable, wire, telegraph, or telephone line or system (a) between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any other State, Territory, or possession of the United States; or (b) between any place in any State, Territory, or possession of the United States, or the District of Columbia, and any place in any foreign country, by purchase, lease, construction, or otherwise, directly or indirectly acquire, own, control, or operate any station or the apparatus therein, or any system for transmitting and/or receiving radio communications or signals between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or shall acquire, own, or control any part of the stock or other capital share or any interest in the physical property and/or other assets of any such radio station, apparatus, or system, if in either case the purpose is and/or the effect thereof may be to substantially lessen competition or to restrain commerce between any place in any State, Territory, or possession of the United States, or in the District of Columbia, and any place in any foreign country, or unlawfully to create monopoly in any line of commerce.

(June 19, 1934, ch. 652, title III, § 314, 48 Stat. 1087.)

REFERENCES IN TEXT

For effective date of this chapter, see section 607 of this title.

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 315. Candidates for public office

(a) Equal opportunities requirement; censorship prohibition; allowance of station use; news appearances exception; public interest; public issues discussion opportunities

If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

(1) bona fide newscast,

(2) bona fide news interview,

(3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) Charges

(1) In general

The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

(A) subject to paragraph (2), during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

(B) at any other time, the charges made for comparable use of such station by other users thereof.

(2) Content of broadcasts

(A) In general

In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this chapter, unless such reference meets the requirements of subparagraph (C) or (D).

(B) Limitation on charges

If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

(C) Television broadcasts

A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

(i) a clearly identifiable photographic or similar image of the candidate; and

(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

(D) Radio broadcasts

A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

(E) Certification

Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

(F) Definitions

For purposes of this paragraph, the terms ''authorized committee'' and ''Federal office'' have the meanings given such terms by section 431 of title 2.

(c) Definitions

For purposes of this section—

(1) the term ''broadcasting station'' includes a community antenna television system; and

(2) the terms ''licensee'' and ''station licensee'' when used with respect to a community antenna television system mean the operator of such system.

(d) Rules and regulations

The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(e) Political record

(1) In general

A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that—

(A) is made by or on behalf of a legally qualified candidate for public office; or

(B) communicates a message relating to any political matter of national importance, including—

(i) a legally qualified candidate;

(ii) any election to Federal office; or

(iii) a national legislative issue of public importance.

(2) Contents of record

A record maintained under paragraph (1) shall contain information regarding—

(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

(B) the rate charged for the broadcast time;

(C) the date and time on which the communication is aired;

(D) the class of time that is purchased;

(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

(3) Time to maintain file

The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.

(June 19, 1934, ch. 652, title III, §315, 48 Stat. 1088; July 16, 1952, ch. 879, §11, 66 Stat. 717; Pub. L. 86–274, §1, Sept. 14, 1959, 73 Stat. 557; Pub. L. 92–225, title I, §§103(a)(1), (2)(B), 104(c), Feb. 7, 1972, 86 Stat. 4, 7; Pub. L. 93–443, title IV, §402, Oct. 15, 1974, 88 Stat. 1291; Pub. L. 107–155, title III, §305(a), (b), title V, §504, Mar. 27, 2002, 116 Stat. 100, 101, 115.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(2)(A), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–155, §305(a), (b), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), inserted ''subject to paragraph (2),'' before ''during the forty-five days'' in par. (1)(A), and added par. (2).

Subsec. (e). Pub. L. 107–155, §504, which directed addition of subsec. (e) and redesignation of former subsecs. (e) and (f) as (f) and (g), respectively, was executed by adding subsec. (e) to reflect the probable intent of Congress. Section did not contain subsecs. (e) and (f).

1974—Subsec. (c). Pub. L. 93–443, §402, struck out provisions respecting station use charges upon certification of nonviolation of Federal limitations of expenditures for use of communications media; redesignated former subsec. (f) as (c); incorporated former par. (1)(A) and (B) provisions in clauses designated (1) and (2) and struck out subpar. (C) definition of ''Federal elective office'' and par. (2) definition of ''legally qualified candidate''.

Subsec. (d). Pub. L. 93–443, §402(a), struck out provisions respecting station use charges upon certification of nonviolation of State limitations of expenditures for use of communications media and conditions for application of State limitations and redesignated former subsec. (g) as (d).

Subsecs. (e) to (g). Pub. L. 93–443, §402(a), struck out subsec. (e) provisions respecting penalties for violations and inapplicability of sections 501 through 503 of this title and redesignated former subsecs. (f) and (g) as (c) and (d).

1972—Subsec. (a). Pub. L. 92–225, §103(a)(2)(B), inserted ''under this subsection'' after ''No obligation is imposed''.

Subsec. (b). Pub. L. 92–225, §103(a)(1), substituted in introductory text ''by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office'', for ''for any of the purposes set forth in this section'', added par. (1), designated existing provisions as par. (2), inserted therein the opening words ''at any other time,'' and substituted ''by other users thereof'' for ''for other purposes''.

Subsecs. (c) to (g). Pub. L. 92–225, §104(c), added subsecs. (c) to (f) and redesignated former subsec. (c) as (g).

1959—Subsec. (a). Pub. L. 86–274 provided that appearances by legally qualified candidates on bona fide newscasts, interviews and documentaries and on on-the-spot coverage of bona fide news events shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

1952—Act July 16, 1952, designated existing provisions as subsecs. (a) and (c) and added subsec. (b).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–155, title III, §305(c), Mar. 27, 2002, 116 Stat. 102, provided that: ''The amendments made by this section [amending this section] shall apply to broadcasts made after the effective date of this Act [Nov. 6, 2002].''

Amendment by Pub. L. 107–155 effective Nov. 6, 2002 (notwithstanding section 305(c) of Pub. L. 107–155, set out above), but not applicable with respect to runoff elections, recounts, or election contests resulting from elections held prior to Nov. 6, 2002, see section 402 of Pub. L. 107–155, set out as an Effective Date of 2002 Amendment; Regulations note under section 431 of Title 2, The Congress.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93–443, set out as a note under section 431 of Title 2, The Congress.

REPEALS

Repeal of title I of Pub. L. 92–225, cited as a credit to this section, by Pub. L. 93–443, title II, §205(b), Oct. 15, 1974, 88 Stat. 1278, has been construed as not repealing the amendments to this section made by sections 103(a)(1), (2)(B), and 104(c) of such title I.

REEXAMINATION OF 1959 AMENDMENT; DECLARATION OF CONGRESSIONAL INTENT

Section 2 of Pub. L. 86–274 provided that:

''(a) The Congress declares its intention to reexamine from time to time the amendment to section 315(a) of the Communications Act of 1934 [subsec. (a) of this section] made by the first section of this Act, to ascertain whether such amendment has proved to be effective and practicable.

''(b) To assist the Congress in making its reexaminations of such amendment, the Federal Communications

Commission shall include in each annual report it makes to Congress a statement setting forth (1) the information and data used by it in determining questions arising from or connected with such amendment, and (2) such recommendations as it deems necessary in the public interest.''

SUSPENSION OF EQUAL TIME PROVISIONS FOR 1960 CAMPAIGN

Pub. L. 86–677, Aug. 24, 1960, 74 Stat. 554, suspended that part of subsec. (a) of this section, which requires any licensee of a broadcast station who permits any person who is a legally qualified candidate for any public office to use a broadcasting station to afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, for the period of the 1960 presidential and vice presidential campaigns with respect to nominees for the offices of President and Vice President of the United States. The Federal Communications Commission was directed to make a report to the Congress, not later than March 1, 1961, with respect to the effect of the provisions of Pub. L. 86–677 and any recommendations the Commission might have for amendments to this chapter as a result of experience under the provisions of Pub. L. 86–677.

§ 316. Modification by Commission of station licenses or construction permits; burden of proof

(a)(1) Any station license or construction permit may be modified by the Commission either for a limited time or for the duration of the term thereof, if in the judgment of the Commission such action will promote the public interest, convenience, and necessity, or the provisions of this chapter or of any treaty ratified by the United States will be more fully complied with. No such order of modification shall become final until the holder of the license or permit shall have been notified in writing of the proposed action and the grounds and reasons therefor, and shall be given reasonable opportunity, of at least thirty days, to protest such proposed order of modification; except that, where safety of life or property is involved, the Commission may by order provide, for a shorter period of notice.

(2) Any other licensee or permittee who believes its license or permit would be modified by the proposed action may also protest the proposed action before its effective date.

(3) A protest filed pursuant to this subsection shall be subject to the requirements of section 309 of this title for petitions to deny.

(b) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission; except that, with respect to any issue that addresses the question of whether the proposed action would modify the license or permit of a person described in subsection (a)(2) of this section, such burdens shall be as determined by the Commission.

(June 19, 1934, ch. 652, title III, §316, as added July 16, 1952, ch. 879, §12, 66 Stat. 717; amended Pub. L. 98–214, §4(a), Dec. 8, 1983, 97 Stat. 1467.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

PRIOR PROVISIONS

A prior section 316 of act June 19, 1934, related to lotteries and similar devices, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See section 1304 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–214, §4(a)(1), (2), designated existing provisions as par. (1), substituted ''and shall be given reasonable opportunity, of at least thirty days, to protest such proposed order of modification; except that, where safety of life or property is involved, the Commission may by order provide, for a shorter period of notice'' for ''and shall have been given reasonable opportunity, in no event less than thirty days, to show cause by public hearing, if requested, why such order of modification should not issue: *Provided*, That where safety of life or property is involved, the Commission may by order provide for a shorter period of notice'', and added pars. (2) and (3).

Subsec. (b). Pub. L. 98–214, §4(a)(3), inserted ''; except that, with respect to any issue that addresses the question of whether the proposed action would modify the license or permit of a person described in subsection (a)(2) of this section, such burdens shall be as determined by the Commission''.

§ 317. Announcement of payment for broadcast

(a) Disclosure of person furnishing

(1) All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person: *Provided*, That ''service or other valuable consideration'' shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.

(2) Nothing in this section shall preclude the Commission from requiring that an appropriate announcement shall be made at the time of the broadcast in the case of any political program or any program involving the discussion of any controversial issue for which any films, records, transcriptions, talent, scripts, or other material or service of any kind have been furnished, without charge or at a nominal charge, directly or indirectly, as an inducement to the broadcast of such program.

(b) Disclosure to station of payments

In any case where a report has been made to a radio station, as required by section 508 of this title, of circumstances which would have required an announcement under this section had the consideration been received by such radio station, an appropriate announcement shall be made by such radio station.

(c) Acquiring information from station employees

The licensee of each radio station shall exercise reasonable diligence to obtain from its em-

ployees, and from other persons with whom it deals directly in connection with any program or program matter for broadcast, information to enable such licensee to make the announcement required by this section.

(d) Waiver of announcement

The Commission may waive the requirement of an announcement as provided in this section in any case or class of cases with respect to which it determines that the public interest, convenience, or necessity does not require the broadcasting of such announcement.

(e) Rules and regulations

The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(June 19, 1934, ch. 652, title III, § 317, 48 Stat. 1089; Pub. L. 86–752, § 8(a), Sept. 13, 1960, 74 Stat. 895; Pub. L. 96–507, § 2(a), Dec. 8, 1980, 94 Stat. 2747.)

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–507 conformed the reference to section 508 of this title to reflect the renumbering of that section by Pub. L. 96–507.

1960—Pub. L. 86–752 designated existing provisions as subsec. (a), inserting proviso clause, and added subsecs. (b) to (e).

§ 318. Transmitting apparatus; operator's license

The actual operation of all transmitting apparatus in any radio station for which a station license is required by this chapter shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: *Provided, however*, That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except (1) stations for which licensed operators are required by international agreement, (2) stations for which licensed operators are required for safety purposes, and (3) stations operated as common carriers on frequencies below thirty thousand kilocycles: *Provided further*, That the Commission shall have power to make special regulations governing the granting of licenses for the use of automatic radio devices and for the operation of such devices.

(June 19, 1934, ch. 652, title III, § 318, 48 Stat. 1089; Mar. 29, 1937, ch. 58, 50 Stat. 56; Pub. L. 86–609, § 1, July 7, 1960, 74 Stat. 363; Pub. L. 94–335, July 1, 1976, 90 Stat. 794; Pub. L. 102–538, title II, § 205, Oct. 27, 1992, 106 Stat. 3543; Pub. L. 103–414, title III, § 303(d), Oct. 25, 1994, 108 Stat. 4296.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–414 made technical amendments to directory language of Pub. L. 102–538, § 205(1). See 1992 Amendment note below.

1992—Pub. L. 102–538, § 205(2), redesignated cl. (4) as (3).

Pub. L. 102–538, § 205(1), as amended by Pub. L. 103–414, struck out cl. (3) which read as follows: ''stations engaged in broadcasting (other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations),''.

1976—Pub. L. 94–335 substituted ''engaged primarily in the function of rebroadcasting the signals of broadcast stations'' for ''engaged solely in the function of rebroadcasting the signals of television broadcast stations'' in parenthetical provisions of cl. (3).

1960—Pub. L. 86–609 inserted ''(other than those engaged solely in the function of rebroadcasting the signals of television broadcast stations)'' after ''engaged in broadcasting''.

1937—Act Mar. 29, 1937, inserted provisos.

§ 319. Construction permits

(a) Requirements

No license shall be issued under the authority of this chapter for the operation of any station unless a permit for its construction has been granted by the Commission. The application for a construction permit shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and the financial, technical, and other ability of the applicant to construct and operate the station, the ownership and location of the proposed station and of the station or stations with which it is proposed to communicate, the frequencies desired to be used, the hours of the day or other periods of time during which it is proposed to operate the station, the purpose for which the station is to be used, the type of transmitting apparatus to be used, the power to be used, the date upon which the station is expected to be completed and in operation, and such other information as the Commission may require. Such application shall be signed by the applicant in any manner or form, including by electronic means, as the Commission may prescribe by regulation.

(b) Time limitation; forfeiture

Such permit for construction shall show specifically the earliest and latest dates between which the actual operation of such station is expected to begin, and shall provide that said permit will be automatically forfeited if the station is not ready for operation within the time specified or within such further time as the Commission may allow, unless prevented by causes not under the control of the grantee.

(c) Licenses for operation

Upon the completion of any station for the construction or continued construction of which a permit has been granted, and upon it being made to appear to the Commission that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest, the Commission shall issue a license to the lawful holder of said permit for the operation of said station. Said license shall conform generally to the terms of said permit. The provisions of section 309(a)–(g) of this title shall not apply

with respect to any station license the issuance of which is provided for and governed by the provisions of this subsection.

(d) Government, amateur, or mobile station; waiver

A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction, except that the Commission may by regulation determine that a permit shall not be required for minor changes in the facilities of authorized broadcast stations. With respect to any other station or class of stations, the Commission shall not waive the requirement for a construction permit unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.

(June 19, 1934, ch. 652, title III, §319, 48 Stat. 1089; July 16, 1952, ch. 879, §13, 66 Stat. 718; Mar. 26, 1954, ch. 111, 68 Stat. 35; Pub. L. 86–609, §2, July 7, 1960, 74 Stat. 363; Pub. L. 86–752, §4(b), Sept. 13, 1960, 74 Stat. 892; Pub. L. 87–444, §4, Apr. 27, 1962, 76 Stat. 64; Pub. L. 97–259, title I, §§118, 119, Sept. 13, 1982, 96 Stat. 1095, 1096; Pub. L. 102–538, title II, §204(c), Oct. 27, 1992, 106 Stat. 3543; Pub. L. 104–104, title IV, §403(m), Feb. 8, 1996, 110 Stat. 132.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–104 substituted ''With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction, except that the Commission may by regulation determine that a permit shall not be required for minor changes in the facilities of authorized broadcast stations. With respect to any other station or class of stations, the Commission shall not waive the requirement for a construction permit unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.'' for ''With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction. With respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.''

1992—Subsec. (a). Pub. L. 102–538 inserted before period at end ''in any manner or form, including by electronic means, as the Commission may prescribe by regulation''.

1982—Subsec. (a). Pub. L. 97–259, §118, struck out ''the construction of which is begun or is continued after this chapter takes effect,'' after ''operation of any station''.

Subsec. (d). Pub. L. 97–259, §119, substituted provision that a permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations, that with respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction, and that with respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver, for provision that with respect to stations or classes of stations other than Government stations, amateur stations, mobile stations, and broadcasting stations, the Commission could waive the requirement of a permit for construction if it found that the public interest, convenience, or necessity would be served thereby, that such waiver would apply only to stations whose construction was begun subsequent to the effective date of the waiver, and that if the Commission found that the public interest, convenience, and necessity would be served thereby, it could waive the requirement of a permit for construction of a station that was engaged solely in rebroadcasting television signals if such station had been constructed on or before July 7, 1960.

1962—Subsec. (a). Pub. L. 87–444 struck out requirement that applications were to be signed under oath or affirmation.

1960—Subsec. (c). Pub. L. 86–752 inserted references to section 309(d)–(g).

Subsec. (d). Pub. L. 86–609 authorized the Commission to waive the requirement of a permit for construction of a station engaged solely in rebroadcasting television signals if such station was constructed on or before July 7, 1960.

1954—Subsec. (b). Act Mar. 26, 1954, struck out sentence providing that a construction permit should not be required for Government stations, amateur stations, or stations upon mobile vessels, railroad rolling stock, or aircraft, such provisions being covered by subsec. (d) of this section.

Subsec. (d). Act Mar. 26, 1954, added subsec. (d).

1952—Subsec. (a). Act July 16, 1952, §13(a), (b), struck out ''upon written application therefor'' after ''by the Commission'' in first sentence, struck out second sentence, and substituted in third sentence, ''The application for a construction permit shall set forth'' for ''This application shall set forth''.

Subsec. (b). Act July 16, 1952, §13(c), (d), struck out second sentence relating to assignment of rights under a permit, and struck out last two sentences, which are incorporated in subsec. (c).

Subsec. (c). Act July 16, 1952, §13(d), added subsec. (c).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–752 effective ninety days after Sept. 13, 1960, see section 4(d)(1) of Pub. L. 86–752, set out as a note under section 309 of this title.

§ 320. Stations liable to interfere with distress signals; designation and regulation

The Commission is authorized to designate from time to time radio stations the communications or signals of which, in its opinion, are liable to interfere with the transmission or reception of distress signals of ships. Such stations are required to keep a licensed radio operator listening in on the frequencies designated for signals of distress and radio communications relating thereto during the entire period the transmitter of such station is in operation.

(June 19, 1934, ch. 652, title III, §320, 48 Stat. 1090.)

§ 321. Distress signals and communications; equipment on vessels; regulations

(a) The transmitting set in a radio station on shipboard may be adjusted in such a manner as to produce a maximum of radiation, irrespective of the amount of interference which may thus be caused, when such station is sending radio communications or signals of distress and radio communications relating thereto.

(b) All radio stations, including Government stations and stations on board foreign vessels when within the territorial waters of the United States, shall give absolute priority to radio communications or signals relating to ships in distress; shall cease all sending on frequencies which will interfere with hearing a radio communication or signal of distress, and, except when engaged in answering or aiding the ship in distress, shall refrain from sending any radio communications or signals until there is assurance that no interference will be caused with the radio communications or signals relating thereto, and shall assist the vessel in distress, so far as possible, by complying with its instructions.

(June 19, 1934, ch. 652, title III, § 321, 48 Stat. 1090; May 20, 1937, ch. 229, § 7, 50 Stat. 191.)

AMENDMENTS

1937—Subsec. (a). Act May 20, 1937, struck out provisions which required radio stations on shipboard to be equipped to transmit radio communications or signals of distress on the frequency specified by the Commission, with apparatus capable of transmitting and receiving messages over a distance of at least 100 miles by day or night.

§ 322. Exchanging radio communications between land and ship stations and from ship to ship

Every land station open to general public service between the coast and vessels or aircraft at sea shall, within the scope of its normal operations, be bound to exchange radio communications or signals with any ship or aircraft station at sea; and each station on shipboard or aircraft at sea shall, within the scope of its normal operations, be bound to exchange radio communications or signals with any other station on shipboard or aircraft at sea or with any land station open to general public service between the coast and vessels or aircraft at sea: *Provided*, That such exchange of radio communication shall be without distinction as to radio systems or instruments adopted by each station.

(June 19, 1934, ch. 652, title III, § 322, 48 Stat. 1090; May 20, 1937, ch. 229, § 8, 50 Stat. 191.)

AMENDMENTS

1937—Act May 20, 1937, provided for radio communications with aircraft stations.

§ 323. Interference between Government and commercial stations

(a) At all places where Government and private or commercial radio stations on land operate in such close proximity that interference with the work of Government stations cannot be avoided when they are operating simultaneously, such private or commercial stations as do interfere with the transmission or reception of radio communications or signals by the Government stations concerned shall not use their transmitters during the first fifteen minutes of each hour, local standard time.

(b) The Government stations for which the above-mentioned division of time is established shall transmit radio communications or signals only during the first fifteen minutes of each hour, local standard time, except in case of signals or radio communications relating to vessels in distress and vessel requests for information as to course, location, or compass direction.

(June 19, 1934, ch. 652, title III, § 323, 48 Stat. 1090.)

§ 324. Use of minimum power

In all circumstances, except in case of radio communications or signals relating to vessels in distress, all radio stations, including those owned and operated by the United States, shall use the minimum amount of power necessary to carry out the communication desired.

(June 19, 1934, ch. 652, title III, § 324, 48 Stat. 1091.)

§ 325. False, fraudulent, or unauthorized transmissions

(a) False distress signals; rebroadcasting programs

No person within the jurisdiction of the United States shall knowingly utter or transmit, or cause to be uttered or transmitted, any false or fraudulent signal of distress, or communication relating thereto, nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station.

(b) Consent to retransmission of broadcasting station signals

(1) No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

(A) with the express authority of the originating station;

(B) under section 534 of this title, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section; or

(C) under section 338 of this title, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

(2) This subsection shall not apply—

(A) to retransmission of the signal of a noncommercial television broadcast station;

(B) to retransmission of the signal of a television broadcast station outside the station's local market by a satellite carrier directly to its subscribers, if—

(i) such station was a superstation on May 1, 1991;

(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17; and

(iii) the satellite carrier complies with any network nonduplication, syndicated exclusivity, and sports blackout rules adopted by the Commission under section 339(b) of this title;

(C) until December 31, 2014, to retransmission of the signals of network stations directly to a home satellite antenna, if the subscriber receiving the signal—

(i) is located in an area outside the local market of such stations; and

(ii) resides in an unserved household;

(D) to retransmission by a cable operator or other multichannel video provider, other than a satellite carrier, of the signal of a television broadcast station outside the station's local market if such signal was obtained from a satellite carrier and—

(i) the originating station was a superstation on May 1, 1991; and

(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17; or

(E) during the 6-month period beginning on November 29, 1999, to the retransmission of the signal of a television broadcast station within the station's local market by a satellite carrier directly to its subscribers under the statutory license of section 122 of title 17.

For purposes of this paragraph, the terms ''satellite carrier'' and ''superstation'' have the meanings given those terms, respectively, in section 119(d) of title 17, as in effect on October 5, 1992, the term ''unserved household'' has the meaning given that term under section 119(d) of such title, and the term ''local market'' has the meaning given that term in section 122(j) of such title.

(3)(A) Within 45 days after October 5, 1992, the Commission shall commence a rulemaking proceeding to establish regulations to govern the exercise by television broadcast stations of the right to grant retransmission consent under this subsection and of the right to signal carriage under section 534 of this title, and such other regulations as are necessary to administer the limitations contained in paragraph (2). The Commission shall consider in such proceeding the impact that the grant of retransmission consent by television stations may have on the rates for the basic service tier and shall ensure that the regulations prescribed under this subsection do not conflict with the Commission's obligation under section 543(b)(1) of this title to ensure that the rates for the basic service tier are reasonable. Such rulemaking proceeding shall be completed within 180 days after October 5, 1992.

(B) The regulations required by subparagraph (A) shall require that television stations, within one year after October 5, 1992, and every three years thereafter, make an election between the right to grant retransmission consent under this subsection and the right to signal carriage under section 534 of this title. If there is more than one cable system which services the same geographic area, a station's election shall apply to all such cable systems.

(C) The Commission shall commence a rulemaking proceeding to revise the regulations governing the exercise by television broadcast stations of the right to grant retransmission consent under this subsection, and such other regulations as are necessary to administer the limitations contained in paragraph (2). Such regulations shall—

(i) establish election time periods that correspond with those regulations adopted under subparagraph (B) of this paragraph;

(ii) until January 1, 2015, prohibit a television broadcast station that provides retransmission consent from engaging in exclusive contracts for carriage or failing to negotiate in good faith, and it shall not be a failure to negotiate in good faith if the television broadcast station enters into retransmission consent agreements containing different terms and conditions, including price terms, with different multichannel video programming distributors if such different terms and conditions are based on competitive marketplace considerations; and

(iii) until January 1, 2015, prohibit a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent under this section, and it shall not be a failure to negotiate in good faith if the distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations.

(4) If an originating television station elects under paragraph (3)(B) to exercise its right to grant retransmission consent under this subsection with respect to a cable system, the provisions of section 534 of this title shall not apply to the carriage of the signal of such station by such cable system. If an originating television station elects under paragraph (3)(C) to exercise its right to grant retransmission consent under this subsection with respect to a satellite carrier, section 338 of this title shall not apply to the carriage of the signal of such station by such satellite carrier.

(5) The exercise by a television broadcast station of the right to grant retransmission consent under this subsection shall not interfere with or supersede the rights under section 338, 534, or 535 of this title of any station electing to assert the right to signal carriage under that section.

(6) Nothing in this section shall be construed as modifying the compulsory copyright license established in section 111 of title 17 or as affecting existing or future video programming licensing agreements between broadcasting stations and video programmers.

(7) For purposes of this subsection, the term—

(A) ''network station'' has the meaning given such term under section 119(d) of title 17; and

(B) ''television broadcast station'' means an over-the-air commercial or noncommercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station.

(c) Broadcast to foreign countries for rebroadcast to United States; permit

No person shall be permitted to locate, use, or maintain a radio broadcast studio or other place or apparatus from which or whereby sound waves are converted into electrical energy, or mechanical or physical reproduction of sound waves produced, and caused to be transmitted or delivered to a radio station in a foreign country for the purpose of being broadcast from any radio station there having a power output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor.

(d) Application for permit

Such application shall contain such information as the Commission may by regulation prescribe, and the granting or refusal thereof shall be subject to the requirements of section 309 of this title with respect to applications for station licenses or renewal or modification thereof, and the license or permission so granted shall be revocable for false statements in the application so required or when the Commission, after hearings, shall find its continuation no longer in the public interest.

(e) Enforcement proceedings against satellite carriers concerning retransmissions of television broadcast stations in the respective local markets of such carriers

(1) Complaints by television broadcast stations

If after the expiration of the 6-month period described under subsection (b)(2)(E) of this section a television broadcast station believes that a satellite carrier has retransmitted its signal to any person in the local market of such station in violation of subsection (b)(1) of this section, the station may file with the Commission a complaint providing—

(A) the name, address, and call letters of the station;

(B) the name and address of the satellite carrier;

(C) the dates on which the alleged retransmission occurred;

(D) the street address of at least one person in the local market of the station to whom the alleged retransmission was made;

(E) a statement that the retransmission was not expressly authorized by the television broadcast station; and

(F) the name and address of counsel for the station.

(2) Service of complaints on satellite carriers

For purposes of any proceeding under this subsection, any satellite carrier that retransmits the signal of any broadcast station shall be deemed to designate the Secretary of the Commission as its agent for service of process. A television broadcast station may serve a satellite carrier with a complaint concerning an alleged violation of subsection (b)(1) of this section through retransmission of a station within the local market of such station by filing the original and two copies of the complaint with the Secretary of the Commission and serving a copy of the complaint on the satellite carrier by means of two commonly used overnight delivery services, each addressed to the chief executive officer of the satellite carrier at its principal place of business, and each marked ''URGENT LITIGATION MATTER'' on the outer packaging. Service shall be deemed complete one business day after a copy of the complaint is provided to the delivery services for overnight delivery. On receipt of a complaint filed by a television broadcast station under this subsection, the Secretary of the Commission shall send the original complaint by United States mail, postage prepaid, receipt requested, addressed to the chief executive officer of the satellite carrier at its principal place of business.

(3) Answers by satellite carriers

Within five business days after the date of service, the satellite carrier shall file an answer with the Commission and shall serve the answer by a commonly used overnight delivery service and by United States mail, on the counsel designated in the complaint at the address listed for such counsel in the complaint.

(4) Defenses

(A) Exclusive defenses

The defenses under this paragraph are the exclusive defenses available to a satellite carrier against which a complaint under this subsection is filed.

(B) Defenses

The defenses referred to under subparagraph (A) are the defenses that—

(i) the satellite carrier did not retransmit the television broadcast station to any person in the local market of the station during the time period specified in the complaint;

(ii) the television broadcast station had, in a writing signed by an officer of the television broadcast station, expressly authorized the retransmission of the station by the satellite carrier to each person in the local market of the television broadcast station to which the satellite carrier made such retransmissions for the entire time period during which it is alleged that a violation of subsection (b)(1) of this section has occurred;

(iii) the retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under section 338 of this title as against the satellite carrier for the relevant period; or

(iv) the station being retransmitted is a noncommercial television broadcast station.

(5) Counting of violations

The retransmission without consent of a particular television broadcast station on a particular day to one or more persons in the local market of the station shall be considered a separate violation of subsection (b)(1) of this section.

(6) Burden of proof

With respect to each alleged violation, the burden of proof shall be on a television broad-

cast station to establish that the satellite carrier retransmitted the station to at least one person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i).

(7) Procedures

(A) Regulations

Within 60 days after November 29, 1999, the Commission shall issue procedural regulations implementing this subsection which shall supersede procedures under section 312 of this title.

(B) Determinations

(i) In general

Within 45 days after the filing of a complaint, the Commission shall issue a final determination in any proceeding brought under this subsection. The Commission's final determination shall specify the number of violations committed by the satellite carrier. The Commission shall hear witnesses only if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.

(ii) Discovery

The Commission may direct the parties to exchange pertinent documents, and if necessary to take prehearing depositions, on such schedule as the Commission may approve, but only if the Commission first determines that such discovery is necessary to resolve a genuine dispute about material facts, consistent with the obligation to make a final determination within 45 days.

(8) Relief

If the Commission determines that a satellite carrier has retransmitted the television broadcast station to at least one person in the local market of such station and has failed to meet its burden of proving one of the defenses under paragraph (4) with respect to such retransmission, the Commission shall be required to—

(A) make a finding that the satellite carrier violated subsection (b)(1) of this section with respect to that station; and

(B) issue an order, within 45 days after the filing of the complaint, containing—

(i) a cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with subsection (b)(1) of this section with respect to such station;

(ii) if the satellite carrier is found to have violated subsection (b)(1) of this section with respect to more than two television broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local market of such station, until such time as the Commission, after giving notice to the station, that the satellite carrier is in compliance with subsection (b)(1) of this section with respect to such stations; and

(iii) an award to the complainant of that complainant's costs and reasonable attorney's fees.

(9) Court proceedings on enforcement of Commission order

(A) In general

On entry by the Commission of a final order granting relief under this subsection—

(i) a television broadcast station may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a final judgment enforcing all relief granted by the Commission; and

(ii) the satellite carrier may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a judgment reversing the Commission's order.

(B) Appeal

The procedure for an appeal under this paragraph by the satellite carrier shall supersede any other appeal rights under Federal or State law. A United States district court shall be deemed to have personal jurisdiction over the satellite carrier if the carrier, or a company under common control with the satellite carrier, has delivered television programming by satellite to more than 30 customers in that district during the preceding 4-year period. If the United States District Court for the Eastern District of Virginia does not have personal jurisdiction over the satellite carrier, an enforcement action or appeal shall be brought in the United States District Court for the District of Columbia, which may find personal jurisdiction based on the satellite carrier's ownership of licenses issued by the Commission. An application by a television broadcast station for an order enforcing any cease-and-desist relief granted by the Commission shall be resolved on a highly expedited schedule. No discovery may be conducted by the parties in any such proceeding. The district court shall enforce the Commission order unless the Commission record reflects manifest error and an abuse of discretion by the Commission.

(10) Civil action for statutory damages

Within 6 months after issuance of an order by the Commission under this subsection, a television broadcast station may file a civil action in any United States district court that has personal jurisdiction over the satellite carrier for an award of statutory damages for any violation that the Commission has determined to have been committed by a satellite carrier under this subsection. Such action shall not be subject to transfer under section

1404(a) of title 28. On finding that the satellite carrier has committed one or more violations of subsection (b) of this section, the District Court shall be required to award the television broadcast station statutory damages of $25,000 per violation, in accordance with paragraph (5), and the costs and attorney's fees incurred by the station. Such statutory damages shall be awarded only if the television broadcast station has filed a binding stipulation with the court that such station will donate the full amount in excess of $1,000 of any statutory damage award to the United States Treasury for public purposes. Notwithstanding any other provision of law, a station shall incur no tax liability of any kind with respect to any amounts so donated. Discovery may be conducted by the parties in any proceeding under this paragraph only if and to the extent necessary to resolve a genuinely disputed issue of fact concerning one of the defenses under paragraph (4). In any such action, the defenses under paragraph (4) shall be exclusive, and the burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i). A judgment under this paragraph may be enforced in any manner permissible under Federal or State law.

(11) Appeals

(A) In general

The nonprevailing party before a United States district court may appeal a decision under this subsection to the United States Court of Appeals with jurisdiction over that district court. The Court of Appeals shall not issue any stay of the effectiveness of any decision granting relief against a satellite carrier unless the carrier presents clear and convincing evidence that it is highly likely to prevail on appeal and only after posting a bond for the full amount of any monetary award assessed against it and for such further amount as the Court of Appeals may believe appropriate.

(B) Appeal

If the Commission denies relief in response to a complaint filed by a television broadcast station under this subsection, the television broadcast station filing the complaint may file an appeal with the United States Court of Appeals for the District of Columbia Circuit.

(12) Sunset

No complaint or civil action may be filed under this subsection after December 31, 2001. This subsection shall continue to apply to any complaint or civil action filed on or before such date.

(June 19, 1934, ch. 652, title III, § 325, 48 Stat. 1091; Pub. L. 102–385, § 6, Oct. 5, 1992, 106 Stat. 1482; Pub. L. 106–113, div. B, § 1000(a)(9) [title I, § 1009], Nov. 29, 1999, 113 Stat. 1536, 1501A–537; Pub. L. 108–447, div. J, title IX [title II, §§ 201, 207(a)], Dec. 8, 2004, 118 Stat. 3409, 3428; Pub. L. 111–118, div. B, § 1003(b), Dec. 19, 2009, 123 Stat. 3469; Pub. L. 111–144, § 10(b), Mar. 2, 2010, 124 Stat. 47; Pub. L. 111–151, § 2(b), Mar. 26, 2010, 124 Stat. 1027; Pub. L. 111–157, § 9(b), Apr. 15, 2010, 124 Stat. 1119; Pub. L. 111–175, title II, § 202, May 27, 2010, 124 Stat. 1245.)

AMENDMENTS

2010—Subsec. (b)(2)(C). Pub. L. 111–175, § 202(1), substituted ''December 31, 2014'' for ''May 31, 2010'' in introductory provisions.

Pub. L. 111–157, § 9(b)(1), substituted ''May 31, 2010'' for ''April 30, 2010'' in introductory provisions.

Pub. L. 111–151, § 2(b)(1), substituted ''April 30, 2010'' for ''March 28, 2010'' in introductory provisions.

Pub. L. 111–144, § 10(b)(1), substituted ''March 28, 2010'' for ''February 28, 2010'' in introductory provisions.

Subsec. (b)(3)(C)(ii), (iii). Pub. L. 111–175, § 202(2), substituted ''January 1, 2015'' for ''June 1, 2010''.

Pub. L. 111–157, § 9(b)(2), substituted ''June 1, 2010'' for ''May 1, 2010''.

Pub. L. 111–151, § 2(b)(2), substituted ''May 1, 2010'' for ''March 29, 2010''.

Pub. L. 111–144, § 10(b)(2), substituted ''March 29, 2010'' for ''March 1, 2010''.

2009—Subsec. (b)(2)(C). Pub. L. 111–118, § 1003(b)(1), substituted ''February 28, 2010'' for ''December 31, 2009'' in introductory provisions.

Subsec. (b)(3)(C)(ii), (iii). Pub. L. 111–118, § 1003(b)(2), substituted ''March 1, 2010'' for ''January 1, 2010''.

2004—Subsec. (b)(2)(C). Pub. L. 108–447, § 201, substituted ''December 31, 2009'' for ''December 31, 2004''.

Subsec. (b)(3)(C). Pub. L. 108–447, § 207(a)(1), (2), in introductory provisions, substituted ''The'' for ''Within 45 days after November 29, 1999, the'' and struck out second sentence which read ''The Commission shall complete all actions necessary to prescribe such regulations within 1 year after November 29, 1999.''

Subsec. (b)(3)(C)(ii). Pub. L. 108–447, § 207(a)(4)(A), substituted ''January 1, 2010'' for ''January 1, 2006''.

Subsec. (b)(3)(C)(iii). Pub. L. 108–447, § 207(a)(3), (4)(B), (5), added cl. (iii).

1999—Subsec. (b)(1), (2). Pub. L. 106–113, § 1000(a)(9) [title I, § 1009(a)(1)], amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

''(1) Following the date that is one year after October 5, 1992, no cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

''(A) with the express authority of the originating station; or

''(B) pursuant to section 534 of this title, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

''(2) The provisions of this subsection shall not apply to—

''(A) retransmission of the signal of a noncommercial broadcasting station;

''(B) retransmission directly to a home satellite antenna of the signal of a broadcasting station that is not owned or operated by, or affiliated with, a broadcasting network, if such signal was retransmitted by a satellite carrier on May 1, 1991;

''(C) retransmission of the signal of a broadcasting station that is owned or operated by, or affiliated with, a broadcasting network directly to a home satellite antenna, if the household receiving the signal is an unserved household; or

''(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if such signal was obtained from a satellite carrier and the originating station was a superstation on May 1, 1991.

For purposes of this paragraph, the terms 'satellite carrier', 'superstation', and 'unserved household' have the meanings given those terms, respectively, in section 119(d) of title 17 as in effect on October 5, 1992.''

Subsec. (b)(3)(C). Pub. L. 106–113, § 1000(a)(9) [title I, § 1009(a)(2)], added subpar. (C).

Subsec. (b)(4). Pub. L. 106–113, § 1000(a)(9) [title I, § 1009(a)(3)], inserted at end ''If an originating tele-

vision station elects under paragraph (3)(C) to exercise its right to grant retransmission consent under this subsection with respect to a satellite carrier, section 338 of this title shall not apply to the carriage of the signal of such station by such satellite carrier.''

Subsec. (b)(5). Pub. L. 106–113, §1000(a)(9) [title I, §1009(a)(4)], substituted ''338, 534, or 535 of this title'' for ''534 or 535 of this title''.

Subsec. (b)(7). Pub. L. 106–113, §1000(a)(9) [title I, §1009(a)(5)], added par. (7).

Subsec. (e). Pub. L. 106–113, §1000(a)(9) [title I, §1009(b)], added subsec. (e).

1992—Subsecs. (b) to (d). Pub. L. 102–385 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as a note under section 111 of Title 17, Copyrights.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 28 of Pub. L. 102–385 provided that: ''Except where otherwise expressly provided, the provisions of this Act [enacting sections 334, 335, 534 to 537, 544a, 548, and 555a of this title, amending this section and sections 332, 522, 532, 533, 541 to 544, 546, 551 to 555, and 558 of this title, and enacting provisions set out as notes under sections 521, 531, 543, and 554 of this title] and the amendments made thereby shall take effect 60 days after the date of enactment of this Act [Oct. 5, 1992].''

REGULATIONS

Pub. L. 108–447, div. J, title IX [title II, §207(b)], Dec. 8, 2004, 118 Stat. 3428, provided that: ''The Federal Communications Commission shall prescribe regulations to implement the amendment made by subsection (a)(5) [amending this section] within 180 days after the date of enactment of this Act [Dec. 8, 2004].''

SAVINGS CLAUSE REGARDING DEFINITIONS

Pub. L. 111–175, title II, §208, May 27, 2010, 124 Stat. 1254, provided that: ''Nothing in this title [enacting section 342 of this title, amending this section and sections 335 and 338 to 340 of this title, and enacting provisions set out as notes under sections 338 and 340 of this title] or the amendments made by this title shall be construed to affect—

''(1) the meaning of the terms 'program related' and 'primary video' under the Communications Act of 1934 [47 U.S.C. 151 et seq.]; or

''(2) the meaning of the term 'multicast' in any regulations issued by the Federal Communications Commission.''

SEVERABILITY

Pub. L. 106–113, div. B, §1000(a)(9) [title I, §1010], Nov. 29, 1999, 113 Stat. 1536, 1501A–543, provided that: ''If any provision of section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)), or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.''

DIGITAL TRANSITION SAVINGS PROVISION

Pub. L. 108–447, div. J, title IX [title II, §212], Dec. 8, 2004, 118 Stat. 3431, provided that: ''Nothing in the dates by which requirements or other provisions are effective under this Act [probably means title IX of div. J of Pub. L. 108–447, see Short Title of 2004 Amendment note set out under section 101 of Title 17, Copyrights] or the amendments made by this Act shall be construed—

''(1) to impair the authority of the Federal Communications Commission to take any action with respect to the transition by television broadcasters to the digital television service; or

''(2) to require the Commission to take any such action.''

§ 326. Censorship

Nothing in this chapter shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.

(June 19, 1934, ch. 652, title III, §326, 48 Stat. 1091; June 25, 1948, ch. 645, §21, 62 Stat. 862.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1948—Act June 25, 1948, repealed last sentence relating to use of indecent language. See section 1464 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 25, 1948, effective as of Sept. 1, 1948, see section 20 of that act.

§ 327. Naval stations; use for commercial messages; rates

The Secretary of the Navy is authorized, unless restrained by international agreement, under the terms and conditions and at rates prescribed by him, which rates shall be just and reasonable, and which, upon complaint, shall be subject to review and revision by the Commission, to use all radio stations and apparatus, wherever located, owned by the United States and under the control of the Navy Department, (a) for the reception and transmission of press messages offered by any newspaper published in the United States, its Territories or possessions, or published by citizens of the United States in foreign countries, or by any press association of the United States, and (b) for the reception and transmission of private commercial messages between ships, between ship and shore, between localities in Alaska and between Alaska and the continental United States: *Provided*, That the rates fixed for the reception and transmission of all such messages, other than press messages between the Pacific coast of the United States, Hawaii, Alaska, Guam, American Samoa, the Philippine Islands, and the Orient, and between the United States and the Virgin Islands, shall not be less than the rates charged by privately owned and operated stations for like messages and service: *Provided further*, That the right to use such stations for any of the purposes named in this section shall terminate and cease as between any countries or localities or between any locality and privately operated ships whenever privately owned and operated stations are capable of meeting the normal communication requirements between such countries or localities or between any locality and privately operated ships, and the Commission shall have notified the Secretary of the Navy thereof.

(June 19, 1934, ch. 652, title III, § 327, 48 Stat. 1091.)

REFERENCES IN TEXT

The Philippine Islands, referred to in text, were granted their independence by Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, issued pursuant to section 1394 of Title 22, Foreign Relations and Intercourse, and set out under that section. They are now known as the Republic of the Philippines.

§ 328. Repealed. Pub. L. 103–414, title III, § 304(a)(10), Oct. 25, 1994, 108 Stat. 4297

Section, act June 19, 1934, ch. 652, title III, § 328, 48 Stat. 1092; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, related to representation of Canal Zone in international radio matters by Secretary of State.

§ 329. Administration of radio laws in Territories and possessions

The Commission is authorized to designate any officer or employee of any other department of the Government on duty in any Territory or possession of the United States to render therein such service in connection with the administration of this chapter as the Commission may prescribe and also to designate any officer or employee of any other department of the Government to render such services at any place within the United States in connection with the administration of this subchapter as may be necessary: *Provided*, That such designation shall be approved by the head of the department in which such person is employed.

(June 19, 1934, ch. 652, title III, § 329, 48 Stat. 1092; May 20, 1937, ch. 229, § 9, 50 Stat. 191.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

1937—Act May 20, 1937, struck out provisions which prohibited designation of officers and employees in the Philippine Islands and Canal Zone and inserted provisions permitting designation of officers and employees within the United States.

§ 330. Prohibition against shipment of certain television receivers

(a) No person shall ship in interstate commerce, or import from any foreign country into the United States, for sale or resale to the public, apparatus described in subsection (s) of section 303 of this title unless it complies with rules prescribed by the Commission pursuant to the authority granted by that subsection: *Provided*, That this section shall not apply to carriers transporting such apparatus without trading in it.

(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) and (z) of this title except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry or capability designed to display closed captioned video programming, the transmission and delivery of video description services, and the conveyance of emergency information as required by section 303 of this title. Such rules shall further require that all such apparatus be able to receive and display closed captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting System engineering report numbered E–7709–C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service and video description service continue to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it.

(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce or manufacture in the United States any apparatus described in section 303(x) of this title except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading in it.

(3) The rules prescribed by the Commission under this subsection shall provide for the oversight by the Commission of the adoption of standards by industry for blocking technology. Such rules shall require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by industry under the supervision of the Commission.

(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. If the Commission determines that an alternative blocking technology exists that—

(A) enables parents to block programming based on identifying programs without ratings,

(B) is available to consumers at a cost which is comparable to the cost of technology that allows parents to block programming based on common ratings, and

(C) will allow parents to block a broad range of programs on a multichannel system as effectively and as easily as technology that allows parents to block programming based on common ratings,

the Commission shall amend the rules prescribed pursuant to section 303(x) of this title to require that the apparatus described in such section be equipped with either the blocking technology described in such section or the alternative blocking technology described in this paragraph.

(d) For the purposes of this section, and sections 303(s), 303(u), and 303(x) of this title—

(1) The term ''interstate commerce'' means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States and any place outside thereof which is within the United States, (B) commerce between points in the same State, the District of Columbia, the Commonwealth of Puerto Rico, or possession of the United States but through any place outside thereof, or (C) commerce wholly within the District of Columbia or any possession of the United States.

(2) The term ''United States'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States, but does not include the Canal Zone.

(June 19, 1934, ch. 652, title III, § 330, as added Pub. L. 87–529, § 2, July 10, 1962, 76 Stat. 151; amended Pub. L. 101–431, § 4, Oct. 15, 1990, 104 Stat. 961; Pub. L. 104–104, title V, § 551(d), Feb. 8, 1996, 110 Stat. 141; Pub. L. 111–260, title II, § 203(c), Oct. 8, 2010, 124 Stat. 2773.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (d)(2), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–260, in first sentence substituted ''303(u) and (z)'' for ''303(u)'', in second sentence substituted ''Such rules shall provide performance and display standards for such built-in decoder circuitry or capability designed to display closed captioned video programming, the transmission and delivery of video description services, and the conveyance of emergency information as required by section 303 of this title.'' for ''Such rules shall provide performance and display standards for such built-in decoder circuitry.'', and in fourth sentence substituted ''closed-captioning service and video description service continue'' for ''closed-captioning service continues''.

1996—Subsec. (c). Pub. L. 104–104, § 551(d)(1)(B), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104–104, § 551(d)(2), in introductory provisions substituted ''and sections 303(s), 303(u), and 303(x) of this title'' for ''section 303(s) of this title, and section 303(u) of this title''.

Pub. L. 104–104, § 551(d)(1)(B), redesignated subsec. (c) as (d).

1990—Subsecs. (b), (c). Pub. L. 101–431 added subsec. (b), redesignated former subsec. (b) as (c), and substituted '', section 303(s) of this title, and section 303(u) of this title'' for ''and section 303(s) of this title''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–431 effective July 1, 1993, see section 5 of Pub. L. 101–431, set out as a note under section 303 of this title.

§ 331. Very high frequency stations and AM radio stations

(a) Very high frequency stations

It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time[1] such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in section 307(d)[2] of this title.

(b) AM radio stations

It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full-time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. The Commission shall report to the appropriate committees of Congress within 30 days after December 20, 1991, on how it intends to meet this policy goal.

(June 19, 1934, ch. 652, title III, § 331, as added Pub. L. 97–248, title III, § 355, Sept. 3, 1982, 96 Stat. 641; amended Pub. L. 102–243, § 4, Dec. 20, 1991, 105 Stat. 2402; Pub. L. 103–414, title III, § 303(a)(18), Oct. 25, 1994, 108 Stat. 4295.)

REFERENCES IN TEXT

Subsec. (d) of section 307 of this title, referred to in subsec. (a), was redesignated subsec. (c) of section 307 by Pub. L. 97–259, title I, § 112(a), Sept. 13, 1982, 96 Stat. 1093.

CODIFICATION

December 20, 1991, referred to in subsec. (b), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 102–243, which enacted subsec. (b), to reflect the probable intent of Congress.

Another section 331 of act June 19, 1934 was renumbered section 332 and is classified to section 332 of this title.

PRIOR PROVISIONS

A prior section 331, act June 19, 1934, ch. 652, title III, § 331, as added Sept. 14, 1973, Pub. L. 93–107, § 1, 87 Stat. 350, related to broadcasting of games of professional sports clubs, prior to repeal by Pub. L. 93–107, § 2, Sept. 14, 1973, 87 Stat. 351, effective Dec. 31, 1975.

AMENDMENTS

1994—Pub. L. 103–414 amended section catchline generally.

1991—Pub. L. 102–243 inserted ''and AM radio stations'' in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§ 332. Mobile services

(a) Factors which Commission must consider

In taking actions to manage the spectrum to be made available for use by the private mobile services, the Commission shall consider, consist-

[1] So in original. Probably should be followed by ''of''.

[2] See References in Text note below.

ent with section 151 of this title, whether such actions will—

(1) promote the safety of life and property;

(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;

(3) encourage competition and provide services to the largest feasible number of users; or

(4) increase interservice sharing opportunities between private mobile services and other services.

(b) Advisory coordinating committees

(1) The Commission, in coordinating the assignment of frequencies to stations in the private mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5 or section 1342 of title 31.

(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

(c) Regulatory treatment of mobile services

(1) Common carrier treatment of commercial mobile services

(A) A person engaged in the provision of a service that is a commercial mobile service shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this chapter, except for such provisions of subchapter II of this chapter as the Commission may specify by regulation as inapplicable to that service or person. In prescribing or amending any such regulation, the Commission may not specify any provision of section 201, 202, or 208 of this title, and may specify any other provision only if the Commission determines that—

(i) enforcement of such provision is not necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with that service are just and reasonable and are not unjustly or unreasonably discriminatory;

(ii) enforcement of such provision is not necessary for the protection of consumers; and

(iii) specifying such provision is consistent with the public interest.

(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this title. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this chapter.

(C) The Commission shall review competitive market conditions with respect to commercial mobile services and shall include in its annual report an analysis of those conditions. Such analysis shall include an identification of the number of competitors in various commercial mobile services, an analysis of whether or not there is effective competition, an analysis of whether any of such competitors have a dominant share of the market for such services, and a statement of whether additional providers or classes of providers in those services would be likely to enhance competition. As a part of making a determination with respect to the public interest under subparagraph (A)(iii), the Commission shall consider whether the proposed regulation (or amendment thereof) will promote competitive market conditions, including the extent to which such regulation (or amendment) will enhance competition among providers of commercial mobile services. If the Commission determines that such regulation (or amendment) will promote competition among providers of commercial mobile services, such determination may be the basis for a Commission finding that such regulation (or amendment) is in the public interest.

(D) The Commission shall, not later than 180 days after August 10, 1993, complete a rulemaking required to implement this paragraph with respect to the licensing of personal communications services, including making any determinations required by subparagraph (C).

(2) Non-common carrier treatment of private mobile services

A person engaged in the provision of a service that is a private mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this chapter. A common carrier (other than a person that was treated as a provider of a private land mobile service prior to August 10, 1993) shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the Commission determines that such termination will serve the public interest.

(3) State preemption

(A) Notwithstanding sections 152(b) and 221(b) of this title, no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substan-

tial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates. Notwithstanding the first sentence of this subparagraph, a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that—

(i) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory; or

(ii) such market conditions exist and such service is a replacement for land line telephone exchange service for a substantial portion of the telephone land line exchange service within such State.

The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

(B) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service offered in such State on such date, such State may, no later than 1 year after August 10, 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. If a State files such a petition, the State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission completes all action (including any reconsideration) on such petition. The Commission shall review such petition in accordance with the procedures established in such subparagraph, shall complete all action (including any reconsideration) within 12 months after such petition is filed, and shall grant such petition if the State satisfies the showing required under subparagraph (A)(i) or (A)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory. After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (A) or this subparagraph, any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

(4) Regulatory treatment of communications satellite corporation

Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite Act of 1962 [47 U.S.C. 741 et seq.] of the corporation authorized by title III of such Act [47 U.S.C. 731 et seq.].

(5) Space segment capacity

Nothing in this section shall prohibit the Commission from continuing to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

(6) Foreign ownership

The Commission, upon a petition for waiver filed within 6 months after August 10, 1993, may waive the application of section 310(b) of this title to any foreign ownership that lawfully existed before May 24, 1993, of any provider of a private land mobile service that will be treated as a common carrier as a result of the enactment of the Omnibus Budget Reconciliation Act of 1993, but only upon the following conditions:

(A) The extent of foreign ownership interest shall not be increased above the extent which existed on May 24, 1993.

(B) Such waiver shall not permit the subsequent transfer of ownership to any other person in violation of section 310(b) of this title.

(7) Preservation of local zoning authority

(A) General authority

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

(B) Limitations

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify per-

sonal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

(C) Definitions

For purposes of this paragraph—

(i) the term ''personal wireless services'' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term ''personal wireless service facilities'' means facilities for the provision of personal wireless services; and

(iii) the term ''unlicensed wireless service'' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v) of this title).

(8) Mobile services access

A person engaged in the provision of commercial mobile services, insofar as such person is so engaged, shall not be required to provide equal access to common carriers for the provision of telephone toll services. If the Commission determines that subscribers to such services are denied access to the provider of telephone toll services of the subscribers' choice, and that such denial is contrary to the public interest, convenience, and necessity, then the Commission shall prescribe regulations to afford subscribers unblocked access to the provider of telephone toll services of the subscribers' choice through the use of a carrier identification code assigned to such provider or other mechanism. The requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest to apply such requirements to such services.

(d) Definitions

For purposes of this section—

(1) the term ''commercial mobile service'' means any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission;

(2) the term ''interconnected service'' means service that is interconnected with the public switched network (as such terms are defined by regulation by the Commission) or service for which a request for interconnection is pending pursuant to subsection (c)(1)(B) of this section; and

(3) the term ''private mobile service'' means any mobile service (as defined in section 153 of this title) that is not a commercial mobile service or the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.

(June 19, 1934, ch. 652, title III, § 332, formerly § 331, as added Pub. L. 97–259, title I, § 120(a), Sept. 13, 1982, 96 Stat. 1096; renumbered § 332, Pub. L. 102–385, § 25(b), Oct. 5, 1992, 106 Stat. 1502; amended Pub. L. 103–66, title VI, § 6002(b)(2)(A), Aug. 10, 1993, 107 Stat. 392; Pub. L. 104–104, § 3(d)(2), title VII, §§ 704(a), 705, Feb. 8, 1996, 110 Stat. 61, 151, 153.)

REFERENCES IN TEXT

Provisions of part III of title 5, referred to in subsec. (b)(2), are classified to section 2101 et seq. of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (b)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

This chapter, referred to in subsec. (c), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

The Communications Satellite Act of 1962, referred to in subsec. (c)(4), is Pub. L. 87–624, Aug. 31, 1962, 76 Stat. 419, as amended. Titles III and IV of the Act are classified generally to subchapters III (§ 731 et seq.) and IV (§ 741 et seq.), respectively, of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

The Omnibus Budget Reconciliation Act of 1993, referred to in subsec. (c)(6), is Pub. L. 103–66, Aug. 10, 1993, 107 Stat. 312, as amended. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (b)(2), ''section 1342 of title 31'' substituted for ''section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsec. (c)(7). Pub. L. 104–104, § 704(a), added par. (7).

Subsec. (c)(8). Pub. L. 104–104, § 705, added par. (8).

Subsec. (d)(1), (3). Pub. L. 104–104, § 3(d)(2), substituted ''section 153'' for ''section 153(n)''.

1993—Pub. L. 103–66 struck out ''Private land'' before ''mobile services'' in section catchline, struck out ''land'' before ''mobile services'' wherever appearing in subsecs. (a) and (b), added subsecs. (c) and (d), and struck out former subsec. (c) which related to service provided by specialized mobile radio, multiple licensed radio dispatch systems, and other radio dispatch systems; common carriers; and rate or entry regulations.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 6002(c) of Pub. L. 103–66 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 152, 153, and 309 of this title] are effective on the date of enactment of this Act [Aug. 10, 1993].

''(2) EFFECTIVE DATES OF MOBILE SERVICE AMENDMENTS.—The amendments made by subsection (b)(2) [amending this section and sections 152 and 153 of this title] shall be effective on the date of enactment of this Act [Aug. 10, 1993], except that—

''(A) section 332(c)(3)(A) of the Communications Act of 1934 [subsec. (c)(3)(A) of this section], as amended by such subsection, shall take effect 1 year after such date of enactment; and

''(B) any private land mobile service provided by any person before such date of enactment, and any paging service utilizing frequencies allocated as of January 1, 1993, for private land mobile services, shall, except for purposes of section 332(c)(6) of such Act [subsec. (c)(6) of this section], be treated as a private mobile service until 3 years after such date of enactment.''

AVAILABILITY OF PROPERTY

Section 704(c) of Pub. L. 104–104 provided that: ''Within 180 days of the enactment of this Act [Feb. 8, 1996], the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.''

TRANSITIONAL RULEMAKING FOR MOBILE SERVICE PROVIDERS

Section 6002(d)(3) of Pub. L. 103–66 provided that: ''Within 1 year after the date of enactment of this Act [Aug. 10, 1993], the Federal Communications Commission—

''(A) shall issue such modifications or terminations of the regulations applicable (before the date of enactment of this Act) to private land mobile services as are necessary to implement the amendments made by subsection (b)(2) [amending this section and sections 152 and 153 of this title];

''(B) in the regulations that will, after such date of enactment, apply to a service that was a private land mobile service and that becomes a commercial mobile service (as a consequence of such amendments), shall make such other modifications or terminations as may be necessary and practical to assure that licensees in such service are subjected to technical requirements that are comparable to the technical requirements that apply to licensees that are providers of substantially similar common carrier services;

''(C) shall issue such other regulations as are necessary to implement the amendments made by subsection (b)(2); and

''(D) shall include, in such regulations, modifications, and terminations, such provisions as are necessary to provide for an orderly transition.''

§ 333. Willful or malicious interference

No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this chapter or operated by the United States Government.

(June 19, 1934, ch. 652, title III, § 333, as added Pub. L. 101–396, § 9, Sept. 28, 1990, 104 Stat. 850.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

§ 334. Limitation on revision of equal employment opportunity regulations

(a) Limitation

Except as specifically provided in this section, the Commission shall not revise—

(1) the regulations concerning equal employment opportunity as in effect on September 1, 1992 (47 C.F.R. 73.2080) as such regulations apply to television broadcast station licensees and permittees; or

(2) the forms used by such licensees and permittees to report pertinent employment data to the Commission.

(b) Midterm review

The Commission shall revise the regulations described in subsection (a) of this section to require a midterm review of television broadcast station licensees' employment practices and to require the Commission to inform such licensees of necessary improvements in recruitment practices identified as a consequence of such review.

(c) Authority to make technical revisions

The Commission may revise the regulations described in subsection (a) of this section to make nonsubstantive technical or clerical revisions in such regulations as necessary to reflect changes in technology, terminology, or Commission organization.

(June 19, 1934, ch. 652, title III, § 334, as added Pub. L. 102–385, § 22(f), Oct. 5, 1992, 106 Stat. 1499.)

EFFECTIVE DATE

Section effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102–385, set out as an Effective Date of 1992 Amendment note under section 325 of this title.

§ 335. Direct broadcast satellite service obligations

(a) Proceeding required to review DBS responsibilities

The Commission shall, within 180 days after October 5, 1992, initiate a rulemaking proceeding to impose, on providers of direct broadcast satellite service, public interest or other requirements for providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) of this title and the use of facilities requirements of section 315 of this title to providers of direct broadcast satellite service providing video programming. Such proceeding also shall examine the opportunities that the establishment of direct broadcast satellite service pro-

vides for the principle of localism under this chapter, and the methods by which such principle may be served through technological and other developments in, or regulation of, such service.

(b) Carriage obligations for noncommercial, educational, State public affairs, and informational programming

(1) Channel capacity required

(A) In general

Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

(B) Requirement for qualified satellite provider

The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

(2) Use of unused channel capacity

A provider of such service may utilize for any purpose any unused channel capacity required to be reserved under this subsection pending the actual use of such channel capacity for noncommercial programming of an educational or informational nature.

(3) Prices, terms, and conditions; editorial control

A provider of direct broadcast satellite service shall meet the requirements of this subsection by making channel capacity available to national educational programming suppliers, upon reasonable prices, terms, and conditions, as determined by the Commission under paragraph (4). The provider of direct broadcast satellite service shall not exercise any editorial control over any video programming provided pursuant to this subsection.

(4) Limitations

In determining reasonable prices under paragraph (3)—

(A) the Commission shall take into account the nonprofit character of the programming provider and any Federal funds used to support such programming;

(B) the Commission shall not permit such prices to exceed, for any channel made available under this subsection, 50 percent of the total direct costs of making such channel available; and

(C) in the calculation of total direct costs, the Commission shall exclude—

(i) marketing costs, general administrative costs, and similar overhead costs of the provider of direct broadcast satellite service; and

(ii) the revenue that such provider might have obtained by making such channel available to a commercial provider of video programming.

(5) Definitions

For purposes of this subsection:

(A) The term ''provider of direct broadcast satellite service'' means—

(i) a licensee for a Ku-band satellite system under part 100 of title 47 of the Code of Federal Regulations; or

(ii) any distributor who controls a minimum number of channels (as specified by Commission regulation) using a Ku-band fixed service satellite system for the provision of video programming directly to the home and licensed under part 25 of title 47 of the Code of Federal Regulations.

(B) The term ''national educational programming supplier'' includes any qualified noncommercial educational television station, other public telecommunications entities, and public or private educational institutions.

(C) The term ''qualified satellite provider'' means any provider of direct broadcast satellite service that—

(i) provides the retransmission of the State public affairs networks of at least 15 different States;

(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

(D) The term ''State public affairs network'' means a non-commercial non-broadcast network or a noncommercial educational television station—

(i) whose programming consists of information about State government deliberations and public policy events; and

(ii) that is operated by—

(I) a State government or subdivision thereof;

(II) an organization described in section 501(c)(3) of title 26 that is exempt from taxation under section 501(a) of such title and that is governed by an independent board of directors; or

(III) a cable system.

(June 19, 1934, ch. 652, title III, § 335, as added Pub. L. 102–385, § 25(a), Oct. 5, 1992, 106 Stat. 1501; amended Pub. L. 111–175, title II, § 209, May 27, 2010, 124 Stat. 1254.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–175, § 209(1), inserted ''State public affairs,'' after ''educational,'' in heading.

Subsec. (b)(1). Pub. L. 111–175, § 209(2), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: ''The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.''

Subsec. (b)(5). Pub. L. 111–175, § 209(3), which directed substitution of ''For purposes of this subsection:'' for ''For purposes of the subsection—'', was executed by making the substitution for ''For purposes of this subsection—'' in introductory provisions, to reflect the probable intent of Congress.

Subsec. (b)(5)(C), (D). Pub. L. 111–175, § 209(4), added subpars. (C) and (D).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as a note under section 111 of Title 17, Copyrights.

EFFECTIVE DATE

Section effective 60 days after Oct. 5, 1992, see section 28 of Pub. L. 102–385, set out as an Effective Date of 1992 Amendment note under section 325 of this title.

§ 336. Broadcast spectrum flexibility

(a) Commission action

If the Commission determines to issue additional licenses for advanced television services, the Commission—

(1) should limit the initial eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both); and

(2) shall adopt regulations that allow the holders of such licenses to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

(b) Contents of regulations

In prescribing the regulations required by subsection (a) of this section, the Commission shall—

(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is consistent with the technology or method designated by the Commission for the provision of advanced television services;

(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

(3) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person, except that no ancillary or supplementary service shall have any rights to carriage under section 534 or 535 of this title or be deemed a multichannel video programming distributor for purposes of section 548 of this title;

(4) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, and may adopt regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

(5) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

(c) Recovery of license

If the Commission grants a license for advanced television services to a person that, as of the date of such issuance, is licensed to operate a television broadcast station or holds a permit to construct such a station (or both), the Commission shall, as a condition of such license, require that either the additional license or the original license held by the licensee be surrendered to the Commission for reallocation or reassignment (or both) pursuant to Commission regulation.

(d) Public interest requirement

Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

(e) Fees

(1) Services to which fees apply

If the regulations prescribed pursuant to subsection (a) of this section permit a licensee to offer ancillary or supplementary services on a designated frequency—

(A) for which the payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish a program to assess and collect from the licensee for such designated frequency an annual fee or other schedule or method of payment that promotes the objectives described in subparagraphs (A) and (B) of paragraph (2).

(2) Collection of fees

The program required by paragraph (1) shall—

(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

(B) recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of this title and the Commission's regulations thereunder; and

(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

(3) Treatment of revenues

(A) General rule

Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31.

(B) Retention of revenues

Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

(4) Report

Within 5 years after February 8, 1996, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

(f) Preservation of low-power community television broadcasting

(1) Creation of class A licenses

(A) Rulemaking required

Within 120 days after November 29, 1999, the Commission shall prescribe regulations to establish a class A television license to be available to licensees of qualifying low-power television stations. Such regulations shall provide that—

(i) the license shall be subject to the same license terms and renewal standards as the licenses for full-power television stations except as provided in this subsection; and

(ii) each such class A licensee shall be accorded primary status as a television broadcaster as long as the station continues to meet the requirements for a qualifying low-power station in paragraph (2).

(B) Notice to and certification by licensees

Within 30 days after November 29, 1999, the Commission shall send a notice to the licensees of all low-power television licenses that describes the requirements for class A designation. Within 60 days after November 29, 1999, licensees intending to seek class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this subsection. Absent a material deficiency, the Commission shall grant certification of eligibility to apply for class A status.

(C) Application for and award of licenses

Consistent with the requirements set forth in paragraph (2)(A) of this subsection, a licensee may submit an application for class A designation under this paragraph within 30 days after final regulations are adopted under subparagraph (A) of this paragraph. Except as provided in paragraphs (6) and (7), the Commission shall, within 30 days after receipt of an application of a licensee of a qualifying low-power television station that is acceptable for filing, award such a class A television station license to such licensee.

(D) Resolution of technical problems

The Commission shall act to preserve the service areas of low-power television licensees pending the final resolution of a class A application. If, after granting certification of eligibility for a class A license, technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary—

(i) to ensure replication of the full-power digital television applicant's service area, as provided for in sections 73.622 and 73.623 of the Commission's regulations (47 CFR 73.622, 73.623); and

(ii) to permit maximization of a full-power digital television applicant's service area consistent with such sections 73.622 and 73.623,

if such applicant has filed an application for maximization or a notice of its intent to seek such maximization by December 31, 1999, and filed a bona fide application for maximization by May 1, 2000. Any such applicant shall comply with all applicable Commission rules regarding the construction of digital television facilities.

(E) Change applications

If a station that is awarded a construction permit to maximize or significantly enhance its digital television service area, later files a change application to reduce its digital television service area, the protected contour of that station shall be reduced in accordance with such change modification.

(2) Qualifying low-power television stations

For purposes of this subsection, a station is a qualifying low-power television station if—

(A)(i) during the 90 days preceding November 29, 1999—

(I) such station broadcast a minimum of 18 hours per day;

(II) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled

low-power stations that carry common local programming produced within the market area served by such group; and

(III) such station was in compliance with the Commission's requirements applicable to low-power television stations; and

(ii) from and after the date of its application for a class A license, the station is in compliance with the Commission's operating rules for full-power television stations; or

(B) the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

(3) Common ownership

No low-power television station authorized as of November 29, 1999, shall be disqualified for a class A license based on common ownership with any other medium of mass communication.

(4) Issuance of licenses for advanced television services to television translator stations and qualifying low-power television stations

The Commission is not required to issue any additional license for advanced television services to the licensee of a class A television station under this subsection, or to any licensee of any television translator station, but shall accept a license application for such services proposing facilities that will not cause interference to the service area of any other broadcast facility applied for, protected, permitted, or authorized on the date of filing of the advanced television application. Such new license or the original license of the applicant shall be forfeited after the end of the digital television service transition period, as determined by the Commission. A licensee of a low-power television station or television translator station may, at the option of licensee, elect to convert to the provision of advanced television services on its analog channel, but shall not be required to convert to digital operation until the end of such transition period.

(5) No preemption of section 337

Nothing in this subsection preempts or otherwise affects section 337 of this title.

(6) Interim qualification

(A) Stations operating within certain bandwidth

The Commission may not grant a class A license to a low-power television station for operation between 698 and 806 megahertz, but the Commission shall provide to low-power television stations assigned to and temporarily operating in that bandwidth the opportunity to meet the qualification requirements for a class A license. If such a qualified applicant for a class A license is assigned a channel within the core spectrum (as such term is defined in MM Docket No. 87–286, February 17, 1998), the Commission shall issue a class A license simultaneously with the assignment of such channel.

(B) Certain channels off-limits

The Commission may not grant under this subsection a class A license to a low-power television station operating on a channel within the core spectrum that includes any of the 175 additional channels referenced in paragraph 45 of its February 23, 1998, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (MM Docket No. 87–268). Within 18 months after November 29, 1999, the Commission shall identify by channel, location, and applicable technical parameters those 175 channels.

(7) No interference requirement

The Commission may not grant a class A license, nor approve a modification of a class A license, unless the applicant or licensee shows that the class A station for which the license or modification is sought will not cause—

(A) interference within—

(i) the predicted Grade B contour (as of the date of the enactment of the Community Broadcasters Protection Act of 1999 [November 29, 1999], or November 1, 1999, whichever is later, or as proposed in a change application filed on or before such date) of any television station transmitting in analog format; or

(ii)(I) the digital television service areas provided in the DTV Table of Allotments; (II) the areas protected in the Commission's digital television regulations (47 CFR 73.622(e) and (f)); (III) the digital television service areas of stations subsequently granted by the Commission prior to the filing of a class A application; and (IV) stations seeking to maximize power under the Commission's rules, if such station has complied with the notification requirements in paragraph (1)(D);

(B) interference within the protected contour of any low-power television station or low-power television translator station that—

(i) was licensed prior to the date on which the application for a class A license, or for the modification of such a license, was filed;

(ii) was authorized by construction permit prior to such date; or

(iii) had a pending application that was submitted prior to such date; or

(C) interference within the protected contour of 80 miles from the geographic center of the areas listed in section 22.625(b)(1) or 90.303 of the Commission's regulations (47 CFR 22.625(b)(1) and 90.303) for frequencies in—

(i) the 470–512 megahertz band identified in section 22.621 or 90.303 of such regulations; or

(ii) the 482–488 megahertz band in New York.

(8) Priority for displaced low-power stations

Low-power stations that are displaced by an application filed under this section shall have priority over other low-power stations in the assignment of available channels.

(g) Evaluation

Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees.

(h) Provision of digital data service by low-power television stations

(1) Within 60 days after receiving a request (made in such form and manner and containing such information as the Commission may require) under this subsection from a low-power television station to which this subsection applies, the Commission shall authorize the licensee or permittee of that station to provide digital data service subject to the requirements of this subsection as a pilot project to demonstrate the feasibility of using low-power television stations to provide high-speed wireless digital data service, including Internet access to unserved areas.

(2) The low-power television stations to which this subsection applies are as follows:

(A) KHLM–LP, Houston, Texas.
(B) WTAM–LP, Tampa, Florida.
(C) WWRJ–LP, Jacksonville, Florida.
(D) WVBG–LP, Albany, New York.
(E) KHHI–LP, Honolulu, Hawaii.
(F) KPHE–LP (K19DD), Phoenix, Arizona.
(G) K34FI, Bozeman, Montana.
(H) K65GZ, Bozeman, Montana.
(I) WXOB–LP, Richmond, Virginia.
(J) WIIW–LP, Nashville, Tennessee.

(K) A station and repeaters to be determined by the Federal Communications Commission for the sole purpose of providing service to communities in the Kenai Peninsula Borough and Matanuska Susitna Borough.

(L) WSPY–LP, Plano, Illinois.
(M) W24AJ, Aurora, Illinois.

(3) Notwithstanding any requirement of section 553 of title 5, the Commission shall promulgate regulations establishing the procedures, consistent with the requirements of paragraphs (4) and (5), governing the pilot projects for the provision of digital data services by certain low power television licensees within 120 days after the date of enactment of LPTV Digital Data Services Act.[1] The regulations shall set forth—

(A) requirements as to the form, manner, and information required for submitting requests to the Commission to provide digital data service as a pilot project;

(B) procedures for testing interference to digital television receivers caused by any pilot project station or remote transmitter;

(C) procedures for terminating any pilot project station or remote transmitter or both that causes interference to any analog or digital full-power television stations, class A television station, television translators or any other users of the core television band;

(D) specifications for reports to be filed quarterly by each low power television licensee participating in a pilot project;

(E) procedures by which a low power television licensee participating in a pilot project shall notify television broadcast stations in the same market upon commencement of digital data services and for ongoing coordination with local broadcasters during the test period; and

(F) procedures for the receipt and review of interference complaints on an expedited basis consistent with paragraph (5)(D).

(4) A low-power television station to which this subsection applies may not provide digital data service unless—

(A) the provision of that service, including any remote return-path transmission in the case of 2-way digital data service, does not cause any interference in violation of the Commission's existing rules, regarding interference caused by low power television stations to full-service analog or digital television stations, class A television stations, or television translator stations; and

(B) the station complies with the Commission's regulations governing safety, environmental, and sound engineering practices, and any other Commission regulation under paragraph (3) governing pilot program operations.

(5)(A) The Commission may limit the provision of digital data service by a low-power television station to which this subsection applies if the Commission finds that—

(i) the provision of 2-way digital data service by that station causes any interference that cannot otherwise be remedied; or

(ii) the provision of 1-way digital data service by that station causes any interference.

(B) The Commission shall grant any such station, upon application (made in such form and manner and containing such information as the Commission may require) by the licensee or permittee of that station, authority to move the station to another location, to modify its facilities to operate on a different channel, or to use booster or auxiliary transmitting locations, if the grant of authority will not cause interference to the allowable or protected service areas of full service digital television stations, National Television Standards Committee assignments, or television translator stations, and provided, however, no such authority shall be granted unless it is consistent with existing Commission regulations relating to the movement, modification, and use of non-class A low power television transmission facilities in order—

(i) to operate within television channels 2 through 51, inclusive; or

(ii) to demonstrate the utility of low-power television stations to provide high-speed 2-way wireless digital data service.

(C) The Commission shall require quarterly reports from each station authorized to provide

[1] See References in Text note below.

digital data services under this subsection that include—

(i) information on the station's experience with interference complaints and the resolution thereof;

(ii) information on the station's market success in providing digital data service; and

(iii) such other information as the Commission may require in order to administer this subsection.

(D) The Commission shall resolve any complaints of interference with television reception caused by any station providing digital data service authorized under this subsection within 60 days after the complaint is received by the Commission.

(6) The Commission shall assess and collect from any low-power television station authorized to provide digital data service under this subsection an annual fee or other schedule or method of payment comparable to any fee imposed under the authority of this chapter on providers of similar services. Amounts received by the Commission under this paragraph may be retained by the Commission as an offsetting collection to the extent necessary to cover the costs of developing and implementing the pilot program authorized by this subsection, and regulating and supervising the provision of digital data service by low-power television stations under this subsection. Amounts received by the Commission under this paragraph in excess of any amount retained under the preceding sentence shall be deposited in the Treasury in accordance with chapter 33 of title 31.

(7) In this subsection, the term ''digital data service'' includes—

(A) digitally-based interactive broadcast service; and

(B) wireless Internet access, without regard to—

(i) whether such access is—

(I) provided on a one-way or a two-way basis;

(II) portable or fixed; or

(III) connected to the Internet via a band allocated to Interactive Video and Data Service; and

(ii) the technology employed in delivering such service, including the delivery of such service via multiple transmitters at multiple locations.

(8) Nothing in this subsection limits the authority of the Commission under any other provision of law.

(i) Definitions

As used in this section:

(1) Advanced television services

The term ''advanced television services'' means television services provided using digital or other advanced technology as further defined in the opinion, report, and order of the Commission entitled ''Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service'', MM Docket 87–268, adopted September 17, 1992, and successor proceedings.

(2) Designated frequencies

The term ''designated frequency'' means each of the frequencies designated by the Commission for licenses for advanced television services.

(3) High definition television

The term ''high definition television'' refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on February 8, 1996, as further defined in the proceedings described in paragraph (1) of this subsection.

(June 19, 1934, ch. 652, title III, § 336, as added Pub. L. 104–104, title II, § 201, Feb. 8, 1996, 110 Stat. 107; Pub. L. 106–113, div. B, § 1000(a)(9) [title V, § 5008(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–595; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 143(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–235.)

REFERENCES IN TEXT

The date of enactment of LPTV Digital Data Services Act, referred to in subsec. (h)(3), probably means the date of enactment of Pub. L. 106–554, which enacted subsec. (h) of this section, and which was approved Dec. 21, 2000. There is no public law with that short title.

This chapter, referred to in subsec. (h)(6), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2000—Subsecs. (h), (i). Pub. L. 106–554 added subsec. (h) and redesignated former subsec. (h) as (i).

1999—Subsecs. (f) to (h). Pub. L. 106–113 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

TRANSITION TO DIGITAL TELEVISION

Pub. L. 107–188, title V, § 531, June 12, 2002, 116 Stat. 695, provided that:

''(a) PAIR ASSIGNMENT REQUIRED.—In order to further promote the orderly transition to digital television, and to promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, the Federal Communications Commission, at the request of an eligible licensee or permittee, shall, within 90 days after the date of enactment of this Act [June 12, 2002], allot, if necessary, and assign a paired digital television channel to that licensee or permittee, provided that—

''(1) such channel can be allotted and assigned without further modification of the tables of allotments as set forth in sections 73.606 and 73.622 of the Commission's regulations (47 CFR 73.606, 73.622); and

''(2) such allotment and assignment is otherwise consistent with the Commission's rules (47 CFR part 73).

''(b) ELIGIBLE TRANSITION LICENSEE OR PERMITTEE.—For purposes of subsection (a), the term 'eligible licensee or permittee' means only a full power television broadcast licensee or permittee (or its successor in interest) that—

''(1) had an application pending for an analog television station construction permit as of October 24, 1991, which application was granted after April 3, 1997; and

''(2) as of the date of enactment of this Act [June 12, 2002], is the permittee or licensee of that station.

''(c) REQUIREMENTS ON LICENSEE OR PERMITTEE.—

''(1) CONSTRUCTION DEADLINE.—Any licensee or permittee receiving a paired digital channel pursuant to this section—

''(A) shall be required to construct the digital television broadcast facility within 18 months of the date on which the Federal Communications Commission issues a construction permit therefore, and

''(B) shall be prohibited from obtaining or receiving an extension of time from the Commission beyond the construction deadline established by paragraph (1).

''(2) PROHIBITION OF ANALOG OPERATION USING DIGITAL PAIR.—Any licensee or permittee receiving a paired digital channel pursuant to this section shall be prohibited from giving up its current paired analog assignment and becoming a single-channel broadcaster and operating in analog on such paired digital channel.

''(d) RELIEF RESTRICTED.—Any paired digital allotment and assignment made under this section shall not be available to any other applicant unless such applicant is an eligible licensee or permittee within the meaning of subsection (b).''

REPORTS ON PROVISION OF DIGITAL DATA SERVICE BY LOW-POWER TELEVISION STATIONS

Pub. L. 106–554, §1(a)(4) [div. B, title I, §143(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–238, provided that: ''The Federal Communications Commission shall submit a report to the Congress on June 30, 2001, and June 30, 2002, evaluating the utility of using low-power television stations to provide high-speed digital data service. The reports shall be based on the pilot projects authorized by section 336(h) of the Communications Act of 1934 (47 U.S.C. 336(h)).''

CONGRESSIONAL FINDINGS REGARDING LOW-POWER BROADCASTERS

Pub. L. 106–113, div. B, §1000(a)(9) [title V, §5008(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–594, provided that: ''Congress finds the following:

''(1) Since the creation of low-power television licenses by the Federal Communications Commission, a small number of license holders have operated their stations in a manner beneficial to the public good providing broadcasting to their communities that would not otherwise be available.

''(2) These low-power broadcasters have operated their stations in a manner consistent with the programming objectives and hours of operation of full-power broadcasters providing worthwhile services to their respective communities while under severe license limitations compared to their full-power counterparts.

''(3) License limitations, particularly the temporary nature of the license, have blocked many low-power broadcasters from having access to capital, and have severely hampered their ability to continue to provide quality broadcasting, programming, or improvements.

''(4) The passage of the Telecommunications Act of 1996 [Pub. L. 104–104, see Short Title of 1996 Amendment note set out under section 609 of this title] has added to the uncertainty of the future status of these stations by the lack of specific provisions regarding the permanency of their licenses, or their treatment during the transition to high definition, digital television.

''(5) It is in the public interest to promote diversity in television programming such as that currently provided by low-power television stations to foreign-language communities.''

EXECUTIVE ORDER NO. 13038

Ex. Ord. No. 13038, Mar. 11, 1997, 62 F.R. 12065, as amended by Ex. Ord. No. 13062, §5, Sept. 29, 1997, 62 F.R. 51756; Ex. Ord. No. 13065, Oct. 22, 1997, 62 F.R. 55329; Ex. Ord. No. 13081, Apr. 30, 1998, 63 F.R. 24385; Ex. Ord. No. 13102, Sept. 25, 1998, 63 F.R. 52125, which established the Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters, was revoked by Ex. Ord. No. 13138, §3(b), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 337. Allocation and assignment of new public safety services licenses and commercial licenses

(a) In general

Not later than January 1, 1998, the Commission shall allocate the electromagnetic spectrum between 746 megahertz and 806 megahertz, inclusive, as follows:

(1) 24 megahertz of that spectrum for public safety services according to the terms and conditions established by the Commission, in consultation with the Secretary of Commerce and the Attorney General; and

(2) 36 megahertz of that spectrum for commercial use to be assigned by competitive bidding pursuant to section 309(j) of this title.

(b) Assignment

The Commission shall commence assignment of licenses for public safety services created pursuant to subsection (a) of this section no later than September 30, 1998.

(c) Licensing of unused frequencies for public safety services

(1) Use of unused channels for public safety services

Upon application by an entity seeking to provide public safety services, the Commission shall waive any requirement of this chapter or its regulations implementing this chapter (other than its regulations regarding harmful interference) to the extent necessary to permit the use of unassigned frequencies for the provision of public safety services by such entity. An application shall be granted under this subsection if the Commission finds that—

(A) no other spectrum allocated to public safety services is immediately available to satisfy the requested public safety service use;

(B) the requested use is technically feasible without causing harmful interference to other spectrum users entitled to protection from such interference under the Commission's regulations;

(C) the use of the unassigned frequency for the provision of public safety services is consistent with other allocations for the provision of such services in the geographic area for which the application is made;

(D) the unassigned frequency was allocated for its present use not less than 2 years prior to the date on which the application is granted; and

(E) granting such application is consistent with the public interest.

(2) Applicability

Paragraph (1) shall apply to any application to provide public safety services that is pending or filed on or after August 5, 1997.

(d) Conditions on licenses

In establishing service rules with respect to licenses granted pursuant to this section, the Commission—

(1) shall establish interference limits at the boundaries of the spectrum block and service area;

(2) shall establish any additional technical restrictions necessary to protect full-service

analog television service and digital television service during a transition to digital television service;

(3) may permit public safety services licensees and commercial licensees—

(A) to aggregate multiple licenses to create larger spectrum blocks and service areas; and

(B) to disaggregate or partition licenses to create smaller spectrum blocks or service areas; and

(4) shall establish rules insuring that public safety services licensees using spectrum reallocated pursuant to subsection (a)(1) of this section shall not be subject to harmful interference from television broadcast licensees.

(e) Removal and relocation of incumbent broadcast licensees

(1) Channels 52 to 69

Any full-power television station licensee that holds a television broadcast license to operate between 698 and 806 megahertz may not operate at that frequency after June 12, 2009.

(2) Incumbent qualifying low-power stations

After making any allocation or assignment under this section, the Commission shall seek to assure, consistent with the Commission's plan for allotments for digital television service, that each qualifying low-power television station is assigned a frequency below 698 megahertz to permit the continued operation of such station.

(f) Definitions

For purposes of this section:

(1) Public safety services

The term ''public safety services'' means services—

(A) the sole or principal purpose of which is to protect the safety of life, health, or property;

(B) that are provided—

(i) by State or local government entities; or

(ii) by nongovernmental organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and

(C) that are not made commercially available to the public by the provider.

(2) Qualifying low-power television stations

A station is a qualifying low-power television station if, during the 90 days preceding August 5, 1997—

(A) such station broadcast a minimum of 18 hours per day;

(B) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station; and

(C) such station was in compliance with the requirements applicable to low-power television stations.

(June 19, 1934, ch. 652, title III, §337, as added Pub. L. 105–33, title III, §3004, Aug. 5, 1997, 111 Stat. 266; amended Pub. L. 106–79, title VIII, §8124(a), Oct. 25, 1999, 113 Stat. 1262; Pub. L. 106–113, div. B, §1000(a)(5) [title II, §213(a)(1), (d)], Nov. 29, 1999, 113 Stat. 1536, 1501A–295, 1501A–297; Pub. L. 109–171, title III, §3002(c)(1), Feb. 8, 2006, 120 Stat. 21; Pub. L. 111–4, §2(b)(3), Feb. 11, 2009, 123 Stat. 112.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

AMENDMENTS

2009—Subsec. (e)(1). Pub. L. 111–4 substituted ''June 12, 2009'' for ''February 17, 2009''.

2006—Subsec. (e)(1). Pub. L. 109–171, §3002(c)(1)(A), substituted ''Channels 52 to 69'' for ''Channels 60 to 69'' in heading and substituted in text ''full-power television station licensee that'' for ''person who'', ''698 and 806 megahertz'' for ''746 and 806 megahertz'', and ''February 17, 2009'' for ''the date on which the digital television service transition period terminates, as determined by the Commission''.

Subsec. (e)(2). Pub. L. 109–171, §3002(c)(1)(B), substituted ''698 megahertz'' for ''746 megahertz''.

1999—Subsec. (b). Pub. L. 106–113, §1000(a)(5) [title II, §213(a)(1)], substituted ''The Commission shall commence assignment of licenses for public safety services created pursuant to subsection (a) of this section no later than September 30, 1998.'' for ''The Commission shall—

''(1) commence assignment of the licenses for public safety services created pursuant to subsection (a) of this section no later than September 30, 1998; and''.

Subsec. (b)(2). Pub. L. 106–79, which struck out par. (2) reading ''commence competitive bidding for the commercial licenses created pursuant to subsection (a) of this section after January 1, 2001.'', was repealed by Pub. L. 106–113, §1000(a)(5) [title II, §213(d)].

INTERFERENCE PROTECTION

Pub. L. 107–195, §6, June 19, 2002, 116 Stat. 717, provided that:

''(a) INTERFERENCE WAIVERS.—In granting a request by a television broadcast station licensee assigned to any of channels 52–69 to utilize any channel of channels 2–51 that is assigned for digital broadcasting in order to continue analog broadcasting during the transition to digital broadcasting, the Federal Communications Commission may not, either at the time of the grant or thereafter, waive or otherwise reduce—

''(1) the spacing requirements provided for analog broadcasting licensees within channels 2–51 as required by section 73.610 of the Commission's rules (and the table contained therein) (47 CFR 73.610), or

''(2) the interference standards provided for digital broadcasting licensees within channels 2–51 as required by sections 73.622 and 73.623 of such rules (47 CFR 73.622, 73.623),

if such waiver or reduction will result in any degradation in or loss of service, or an increased level of interference, to any television household except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted.

''(b) EXCEPTION FOR PUBLIC SAFETY CHANNEL CLEARING.—The restrictions in subsection (a) shall not apply to a station licensee that is seeking authority (either by waiver or otherwise) to vacate the frequencies that constitute television channel 63, 64, 68, or 69 in order to make such frequencies available for public safety purposes pursuant to the provisions of section 337 of the Communications Act of 1934 (47 U.S.C. 337).''

COMPETITIVE BIDDING PROCESS FOR COMMERCIAL LICENSES FOR ASSIGNED FREQUENCIES

Pub. L. 106–113, div. B, §1000(a)(5) [title II, §213], Nov. 29, 1999, 113 Stat. 1536, 1501A–295, as amended by Pub. L.

107–195, § 3(b)(3), June 19, 2002, 116 Stat. 717, provided that:

''(a) REVISED SCHEDULE FOR COMPETITIVE BIDDING OF SPECTRUM.—(1) [Amended subsec. (b) of this section.]

''[(2), (3) Repealed. Pub. L. 107–195, § 3(b)(3), June 19, 2002, 116 Stat. 717.]

''(4)(A) To expedite the assignment by competitive bidding of the frequencies identified in section 337(a)(2) of the Communications Act of 1934 (47 U.S.C. 337(a)(2)), the rules governing such frequencies shall be effective immediately upon publication in the Federal Register without regard to sections 553(d), 801(a)(3), 804(2), and 806(a) of title 5, United States Code.

''(B) Chapter 6 of title 5, United States Code, section 3 of the Small Business Act (15 U.S.C. 632), and sections 3507 and 3512 of title 44, United States Code, shall not apply to the rules and competitive bidding procedures governing the frequencies described in subparagraph (A).

''(5) Notwithstanding section 309(b) of the Communications Act of 1934 (47 U.S.C. 309(b)), no application for an instrument of authorization for the frequencies described in paragraph (4) may be granted by the Federal Communications Commission earlier than 7 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any substantial amendment thereto.

''(6) Notwithstanding section 309(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)), the Federal Communications Commission may specify a period (which shall be not less than 5 days following issuance of the public notice described in paragraph (5)) for the filing of petitions to deny any application for an instrument of authorization for the frequencies described in paragraph (4).

''(b) REPORTS.—(1) Not later than 30 days after the date of the enactment of this Act [Nov. 29, 1999], the Director of the Office of Management and Budget and the Federal Communications Commission shall each submit to the appropriate congressional committees a report which shall—

''(A) set forth the anticipated schedule (including specific dates) for—

''(i) preparing and conducting the competitive bidding process required by subsection (a); and

''(ii) depositing the receipts of the competitive bidding process;

''(B) set forth each significant milestone in the rulemaking process with respect to the competitive bidding process; and

''(C) include an explanation of the effect of each requirement in subsection (a) on the schedule for the competitive bidding process and any post-bidding activities (including the deposit of receipts) when compared with the schedule for the competitive bidding and any post-bidding activities (including the deposit of receipts) that would otherwise have occurred under section 337(b)(2) of the Communications Act of 1934 (47 U.S.C. 337(b)(2)) if not for the enactment of subsection (a).

''(2) Not later than 60 days after the date of the enactment of this Act [Nov. 29, 1999], the Federal Communications Commission shall submit to the appropriate congressional committees a report which shall set forth for each spectrum auction held by the Commission since January 1, 1998, information on—

''(A) the time required for each stage of preparation for the auction;

''(B) the date of the commencement and of the completion of the auction;

''(C) the time which elapsed between the date of the completion of the auction and the date of the first deposit of receipts from the auction in the Treasury; and

''(D) the amounts, summarized by month, of all subsequent deposits in a Treasury receipt account from the auction.

''(3) Not later than October 31, 2000, the Federal Communications Commission shall submit to the appropriate congressional committees a report which shall—

''(A) describe the course of the competitive bidding process required by subsection (a) through September 30, 2000, including the amount of any receipts from the competitive bidding process deposited in the Treasury as of September 30, 2000; and

''(B) if the course of the competitive bidding process has included any deviations from the schedule set forth under paragraph (1)(A), an explanation for such deviations from the schedule.

''(4) Each report required by this subsection shall be prepared by the agency concerned without influence of any other Federal department or agency.

''(5) In this subsection, the term ''appropriate congressional committees'' means the following:

''(A) The Committees on Appropriations, the Budget, and Commerce, Science, and Transportation of the Senate.

''(B) The Committees on Appropriations, the Budget, and Commerce of the House of Representatives.

''(c) CONSTRUCTION.—Nothing in this section shall be construed to supersede the requirements placed on the Federal Communications Commission by section 337(d)(4) of the Communications Act of 1934 (47 U.S.C. 337(d)(4)).

''(d) REPEAL OF SUPERSEDED PROVISIONS.—Section 8124 of the Department of Defense Appropriations Act, 2000 [Pub. L. 106–79, amending this section and enacting provisions formerly set out under this section] is repealed.''

Pub. L. 106–79, title VIII, § 8124, Oct. 25, 1999, 113 Stat. 1262, related to the establishment of a competitive bidding process for commercial licenses and required reports to Congressional committees, prior to repeal by Pub. L. 106–113, div. B, § 1000(a)(5) [title II, § 213(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A–297.

§ 338. Carriage of local television signals by satellite carriers

(a) Carriage obligations

(1) In general

Each satellite carrier providing, under section 122 of title 17, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) of this title.

(2) Remedies for failure to carry

In addition to the remedies available to television broadcast stations under section 501(f) of title 17, the Commission may use the Commission's authority under this chapter to assure compliance with the obligations of this subsection, but in no instance shall a Commission enforcement proceeding be required as a predicate to the pursuit of a remedy available under such section 501(f).

(3) Low power station carriage optional

No low power television station whose signals are provided under section 119(a)(14)[1] of title 17 shall be entitled to insist on carriage under this section, regardless of whether the satellite carrier provides secondary transmissions of the primary transmissions of other stations in the same local market pursuant to section 122 of such title, nor shall any such carriage be considered in connection with the requirements of subsection (c) of this section.

[1] See References in Text note below.

(4) Carriage of signals of local stations in certain markets

A satellite carrier that offers multichannel video programming distribution service in the United States to more than 5,000,000 subscribers shall (A) within 1 year after December 8, 2004, retransmit the signals originating as analog signals of each television broadcast station located in any local market within a State that is not part of the contiguous United States, and (B) within 30 months after December 8, 2004, retransmit the signals originating as digital signals of each such station. The retransmissions of such stations shall be made available to substantially all of the satellite carrier's subscribers in each station's local market, and the retransmissions of the stations in at least one market in the State shall be made available to substantially all of the satellite carrier's subscribers in areas of the State that are not within a designated market area. The cost to subscribers of such retransmissions shall not exceed the cost of retransmissions of local television stations in other States. Within 1 year after December 8, 2004, the Commission shall promulgate regulations concerning elections by television stations in such State between mandatory carriage pursuant to this section and retransmission consent pursuant to section 325(b) of this title, which shall take into account the schedule on which local television stations are made available to viewers in such State.

(5) Nondiscrimination in carriage of high definition signals of noncommercial educational television stations

(A) Existing carriage of high definition signals

If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

(B) New initiation of service

If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.

(b) Good signal required

(1) Costs

A television broadcast station asserting its right to carriage under subsection (a) of this section shall be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier or to another facility that is acceptable to at least one-half the stations asserting the right to carriage in the local market.

(2) Regulations

The regulations issued under subsection (g) of this section shall set forth the obligations necessary to carry out this subsection.

(c) Duplication not required

(1) Commercial stations

Notwithstanding subsection (a)(1) of this section, a satellite carrier shall not be required to carry upon request the signal of any local commercial television broadcast station that substantially duplicates the signal of another local commercial television broadcast station which is secondarily transmitted by the satellite carrier within the same local market, or to carry upon request the signals of more than one local commercial television broadcast station in a single local market that is affiliated with a particular television network unless such stations are licensed to communities in different States.

(2) Noncommercial stations

The Commission shall prescribe regulations limiting the carriage requirements under subsection (a) of this section of satellite carriers with respect to the carriage of multiple local noncommercial television broadcast stations. To the extent possible, such regulations shall provide the same degree of carriage by satellite carriers of such multiple stations as is provided by cable systems under section 535 of this title.

(d) Channel positioning

No satellite carrier shall be required to provide the signal of a local television broadcast station to subscribers in that station's local market on any particular channel number or to provide the signals in any particular order, except that the satellite carrier shall retransmit the signal of the local television broadcast stations to subscribers in the stations' local market on contiguous channels and provide access to such station's signals at a nondiscriminatory price and in a nondiscriminatory manner on any navigational device, on-screen program guide, or menu.

(e) Compensation for carriage

A satellite carrier shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local television broadcast stations in fulfillment of

the requirements of this section or for channel positioning rights provided to such stations under this section, except that any such station may be required to bear the costs associated with delivering a good quality signal to the local receive facility of the satellite carrier.

(f) Remedies

(1) Complaints by broadcast stations

Whenever a local television broadcast station believes that a satellite carrier has failed to meet its obligations under subsections (b) through (e) of this section, such station shall notify the carrier, in writing, of the alleged failure and identify its reasons for believing that the satellite carrier failed to comply with such obligations. The satellite carrier shall, within 30 days after such written notification, respond in writing to such notification and comply with such obligations or state its reasons for believing that it is in compliance with such obligations. A local television broadcast station that disputes a response by a satellite carrier that it is in compliance with such obligations may obtain review of such denial or response by filing a complaint with the Commission. Such complaint shall allege the manner in which such satellite carrier has failed to meet its obligations and the basis for such allegations.

(2) Opportunity to respond

The Commission shall afford the satellite carrier against which a complaint is filed under paragraph (1) an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

(3) Remedial actions; dismissal

Within 120 days after the date a complaint is filed under paragraph (1), the Commission shall determine whether the satellite carrier has met its obligations under subsections (b) through (e) of this section. If the Commission determines that the satellite carrier has failed to meet such obligations, the Commission shall order the satellite carrier to take appropriate remedial action. If the Commission determines that the satellite carrier has fully met the requirements of such subsections, the Commission shall dismiss the complaint.

(g) Carriage of local stations on a single reception antenna

(1) Single reception antenna

Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

(2) Additional reception antenna

If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).

(h) Additional notices to subscribers, networks, and stations concerning signal carriage

(1) Notices to and elections by subscribers concerning grandfathered signals

Any carrier that provides a distant signal of a network station to a subscriber pursuant[2] section 339(a)(2)(A) of this title shall—

(A) within 60 days after the local signal of a network station of the same television network is available pursuant to section 338 of this title, or within 60 days after December 8, 2004, whichever is later, send a notice to the subscriber—

(i) offering to substitute the local network signal for the duplicating distant network signal; and

(ii) informing the subscriber that, if the subscriber fails to respond in 60 days, the subscriber will lose the distant network signal but will be permitted to subscribe to the local network signal; and

(B) if the subscriber—

(i) elects to substitute such local network signal within such 60 days, switch such subscriber to such local network signal within 10 days after the end of such 60-day period; or

(ii) fails to respond within such 60 days, terminate the distant network signal within 10 days after the end of such 60-day period.

(2) Notice to station licensees of commencement of local-into-local service

(A) Notice required

Within 180 days after December 8, 2004, the Commission shall revise the regulations under this section relating to notice to broadcast station licensees to comply with the requirements of this paragraph.

(B) Contents of commencement notice

The notice required by such regulations shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage—

(i) of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market;

(ii) of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b) of this title;

(iii) that such licensee has 30 days from the date of the receipt of such notice to make such election; and

(iv) that failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325 of this title.

[2] So in original. Probably should be followed by ''to''.

(C) Transmission of notices

Such regulations shall require that each satellite carrier shall transmit the notices required by such regulation via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.

(i) Privacy rights of satellite subscribers

(1) Notice

At the time of entering into an agreement to provide any satellite service or other service to a subscriber and at least once a year thereafter, a satellite carrier shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

(C) the period during which such information will be maintained by the satellite carrier;

(D) the times and place at which the subscriber may have access to such information in accordance with paragraph (5); and

(E) the limitations provided by this section with respect to the collection and disclosure of information by a satellite carrier and the right of the subscriber under paragraphs (7) and (9) to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this subsection, such notice shall be provided within 180 days of such date and at least once a year thereafter.

(2) Definitions

For purposes of this subsection, other than paragraph (9)—

(A) the term ''personally identifiable information'' does not include any record of aggregate data which does not identify particular persons;

(B) the term ''other service'' includes any wire or radio communications service provided using any of the facilities of a satellite carrier that are used in the provision of satellite service; and

(C) the term ''satellite carrier'' includes, in addition to persons within the definition of satellite carrier, any person who—

(i) is owned or controlled by, or under common ownership or control with, a satellite carrier; and

(ii) provides any wire or radio communications service.

(3) Prohibitions

(A) Consent to collection

Except as provided in subparagraph (B), a satellite carrier shall not use any facilities used by the satellite carrier to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

(B) Exceptions

A satellite carrier may use such facilities to collect such information in order to—

(i) obtain information necessary to render a satellite service or other service provided by the satellite carrier to the subscriber; or

(ii) detect unauthorized reception of satellite communications.

(4) Disclosure

(A) Consent to disclosure

Except as provided in subparagraph (B), a satellite carrier shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or satellite carrier.

(B) Exceptions

A satellite carrier may disclose such information if the disclosure is—

(i) necessary to render, or conduct a legitimate business activity related to, a satellite service or other service provided by the satellite carrier to the subscriber;

(ii) subject to paragraph (9), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed;

(iii) a disclosure of the names and addresses of subscribers to any satellite service or other service, if—

(I) the satellite carrier has provided the subscriber the opportunity to prohibit or limit such disclosure; and

(II) the disclosure does not reveal, directly or indirectly, the—

(aa) extent of any viewing or other use by the subscriber of a satellite service or other service provided by the satellite carrier; or

(bb) the nature of any transaction made by the subscriber over any facilities used by the satellite carrier; or

(iv) to a government entity as authorized under chapter 119, 121, or 206 of title 18, except that such disclosure shall not include records revealing satellite subscriber selection of video programming from a satellite carrier.

(5) Access by subscriber

A satellite subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a satellite carrier. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such satellite carrier. A satellite subscriber shall be provided reasonable opportunity to correct any error in such information.

(6) Destruction of information

A satellite carrier shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under paragraph (5) or pursuant to a court order.

(7) Penalties

Any person aggrieved by any act of a satellite carrier in violation of this section may bring a civil action in a United States district court. The court may award—

(A) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

(B) punitive damages; and

(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

The remedy provided by this subsection shall be in addition to any other lawful remedy available to a satellite subscriber.

(8) Rule of construction

Nothing in this subchapter shall be construed to prohibit any State from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

(9) Court orders

Except as provided in paragraph (4)(B)(iv), a governmental entity may obtain personally identifiable information concerning a satellite subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

(A) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

(B) the subject of the information is afforded the opportunity to appear and contest such entity's claim.

(j) Regulations by Commission

Within 1 year after November 29, 1999, the Commission shall issue regulations implementing this section following a rulemaking proceeding. The regulations prescribed under this section shall include requirements on satellite carriers that are comparable to the requirements on cable operators under sections 534(b)(3) and (4) and 535(g)(1) and (2) of this title.

(k) Definitions

As used in this section:

(1) Distributor

The term ''distributor'' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities.

(2) Eligible satellite carrier

The term ''eligible satellite carrier'' means any satellite carrier that is not a party to a carriage contract that—

(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

(B) is in force and effect within 150 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.

(3) Local receive facility

The term ''local receive facility'' means the reception point in each local market which a satellite carrier designates for delivery of the signal of the station for purposes of retransmission.

(4) Local market

The term ''local market'' has the meaning given that term under section 122(j) of title 17.

(5) Low power television station

The term ''low power television station'' means a low power television station as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ''low power television station'' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

(6) Qualified noncommercial educational television station

The term ''qualified noncommercial educational television station'' means any full-power television broadcast station that—

(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.

(7) Satellite carrier

The term ''satellite carrier'' has the meaning given such term under section 119(d) of title 17.

(8) Secondary transmission

The term ''secondary transmission'' has the meaning given such term in section 119(d) of title 17.

(9) Subscriber

The term ''subscriber'' has the meaning given that term under section 122(j) of title 17.

(10) Television broadcast station

The term ''television broadcast station'' has the meaning given such term in section 325(b)(7) of this title.

(June 19, 1934, ch. 652, title III, § 338, as added Pub. L. 106–113, div. B, § 1000(a)(9) [title I, § 1008(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–531; amended Pub. L. 108–447, div. J, title IX [title II,

§§ 203, 205, 206(a), 210], Dec. 8, 2004, 118 Stat. 3414, 3424, 3425, 3429; Pub. L. 111–175, title II, §§ 204(a), 207, May 27, 2010, 124 Stat. 1246, 1253.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original ''this Act'', meaning act June 19, 1934, ch. 652, 48 Stat. 1064, known as the Communications Act of 1934, which is classified principally to this chapter. For complete classification of this Act to the Code, see section 609 of this title and Tables.

Section 119(a)(14) of title 17, referred to in subsec. (a)(3), was redesignated as section 119(a)(13) of title 17 by Pub. L. 111–175, title I, § 102(h)(1)(B), May 27, 2010, 124 Stat. 1224. However, provision relating to signals of low power television station was section 119(a)(15) of title 17, which was repealed by section 102(h)(1)(C) of Pub. L. 111–175.

The date of enactment of the Satellite Television Extension and Localism Act of 2010, referred to in subsecs. (a)(5) and (k)(2)(B), is the date of enactment of Pub. L. 111–175, which shall be deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights.

For the effective date of this subsection, referred to in subsec. (i)(1), as 60 days after Dec. 8, 2004, see section 206(b) of Pub. L. 108–447, set out as an Effective Date of 2004 Amendment note below.

AMENDMENTS

2010—Subsec. (a)(3). Pub. L. 111–175, § 204(a)(1), struck out par. (3) relating to effective date. Text read as follows: ''No satellite carrier shall be required to carry local television broadcast stations under paragraph (1) until January 1, 2002.''

Subsec. (a)(5). Pub. L. 111–175, § 207(a), added par. (5).

Subsec. (g). Pub. L. 111–175, § 204(a)(2), amended subsec. (g) generally. Prior to amendment, subsec. (g) related to carriage of local stations on a single dish.

Subsec. (k)(2) to (5). Pub. L. 111–175, § 207(b)(1), (2), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively. Former par. (5) redesignated (6).

Subsec. (k)(6). Pub. L. 111–175, § 207(b)(4), added par. (6). Former par. (6) redesignated (7).

Pub. L. 111–175, § 207(b)(1), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (k)(7) to (9). Pub. L. 111–175, § 207(b)(3), redesignated pars. (6) to (8) as (7) to (9), respectively. Former par. (9) redesignated (10).

Pub. L. 111–175, § 207(b)(1), redesignated pars. (6) to (8) as (7) to (9), respectively.

Subsec. (k)(10). Pub. L. 111–175, § 207(b)(3), redesignated par. (9) as (10).

2004—Subsec. (a)(1) to (3). Pub. L. 108–447, § 203(b)(1), added pars. (1) and (2) and the par. (3) relating to low power station carriage and struck out former pars. (1) and (2) which required each satellite carrier providing secondary transmissions within the local market of a television broadcast station of a primary transmission made by that station to carry upon request the signals of all television broadcast stations within that local market and provided for remedies for failure to carry.

Subsec. (a)(4). Pub. L. 108–447, § 210, added par. (4).

Subsec. (c)(1). Pub. L. 108–447, § 203(b)(2), substituted ''subsection (a)(1)'' for ''subsection (a)''.

Subsecs. (g), (h). Pub. L. 108–447, §§ 203(a)(2), 205, added subsecs. (g) and (h). Former subsecs. (g) and (h) redesignated (j) and (k), respectively.

Subsec. (i). Pub. L. 108–447, § 206(a), added subsec. (i).

Subsec. (j). Pub. L. 108–447, § 203(a)(1), redesignated subsec. (g) as (j).

Subsec. (k). Pub. L. 108–447, § 203(a)(1), redesignated subsec. (h) as (k).

Subsec. (k)(4) to (8). Pub. L. 108–447, § 203(b)(3), added par. (4) and redesignated former pars. (4) to (7) as (5) to (8), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as a note under section 111 of Title 17, Copyrights.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–447, div. J, title IX [title II, § 206(b)], Dec. 8, 2004, 118 Stat. 3428, provided that: ''Section 338(i) of the Communications Act of 1934 (47 U.S.C. 338(i)) as amended by subsection (a) of this section shall be effective 60 days after the date of enactment of this Act [Dec. 8, 2004].''

APPLICATION PENDING COMPLETION OF RULEMAKINGS

Pub. L. 111–175, title II, § 205, May 27, 2010, 124 Stat. 1250, provided that:

''(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act [deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights] and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 203 and section 204 of this title [amending this section and sections 339 and 340 of this title], the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 [47 U.S.C. 338 to 340] as in effect on the day before the date of the enactment of this Act.

''(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber's eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

''(c) DEFINITIONS.—As used in this subtitle [title II of Pub. L. 111–175 does not contain subtitles]:

''(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms 'local market', 'low power television station', 'satellite carrier', 'subscriber', and 'television broadcast station' have the meanings given such terms in section 338(k) of the Communications Act of 1934 [47 U.S.C. 338(k)].

''(2) NETWORK STATION; TELEVISION NETWORK.—The terms 'network station' and 'television network' have the meanings given such terms in section 339(d) of such Act [47 U.S.C. 339(d)].''

REPORTS

Pub. L. 111–175, title III, §§ 301, 305, May 27, 2010, 124 Stat. 1255, 1256, provided that:

''SEC. 301. DEFINITION.

''In this title [enacting provisions set out as notes under section 111 of Title 17, Copyrights], the term 'appropriate Congressional committees' means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

''SEC. 305. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—On the 270th day after the date of the enactment of this Act [deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights], and on each succeeding anniversary of such 270th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

''(A) each local market in which it—

''(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

''(ii) has commenced providing such signals in the preceding 1-year period; and

''(iii) has ceased to provide such signals in the preceding 1-year period; and

''(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

''(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

''(b) FCC STUDY; REPORT.—

''(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 [47 U.S.C. 342] (as added by section 206 of this title) within 270 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

''(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

''(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

''(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

''(c) DEFINITIONS.—In this section—

''(1) the terms 'local market' and 'satellite carrier' have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

''(2) the term 'television broadcast station' has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).''

RURAL LOCAL TELEVISION SIGNALS

Pub. L. 106–113, div. B, §1000(a)(9) [title II], Nov. 29, 1999, 113 Stat. 1536, 1501A–544, provided that:

''SEC. 2001. SHORT TITLE.

''This title may be cited as the 'Rural Local Broadcast Signal Act'.

''SEC. 2002. LOCAL TELEVISION SERVICE IN UNSERVED AND UNDERSERVED MARKETS.

''(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Nov. 29, 1999], the Federal Communications Commission (''the Commission') shall take all actions necessary to make a determination regarding licenses or other authorizations for facilities that will utilize, for delivering local broadcast television station signals to satellite television subscribers in unserved and underserved local television markets, spectrum otherwise allocated to commercial use.

''(b) RULES.—

''(1) FORM OF BUSINESS.—To the extent not inconsistent with the Communications Act of 1934 [47 U.S.C. 151 et seq.] and the Commission's rules, the Commission shall permit applicants under subsection (a) to engage in partnerships, joint ventures, and similar operating arrangements for the purpose of carrying out subsection (a).

''(2) HARMFUL INTERFERENCE.—The Commission shall ensure that no facility licensed or authorized under subsection (a) causes harmful interference to the primary users of that spectrum or to public safety spectrum use.

''(3) LIMITATION ON COMMISSION.—Except as provided in paragraphs (1) and (2), the Commission may not restrict any entity granted a license or other authorization under subsection (a) from using any reasonable compression, reformatting, or other technology.

''(c) REPORT.—Not later than January 1, 2001, the Commission shall report to the Agriculture, Appropriations, and the Judiciary Committees of the Senate and the House of Representatives, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Commerce [now Committee on Energy and Commerce], on the extent to which licenses and other authorizations under subsection (a) have facilitated the delivery of local signals to satellite television subscribers in unserved and underserved local television markets. The report shall include—

''(1) an analysis of the extent to which local signals are being provided by direct-to-home satellite television providers and by other multichannel video program distributors;

''(2) an enumeration of the technical, economic, and other impediments each type of multichannel video programming distributor has encountered; and

''(3) recommendations for specific measures to facilitate the provision of local signals to subscribers in unserved and underserved markets by direct-to-home satellite television providers and by other distributors of multichannel video programming service.''

§ 339. Carriage of distant television stations by satellite carriers

(a) Provisions relating to carriage of distant signals

(1) Carriage permitted

(A) In general

Subject to section 119 of title 17, any satellite carrier shall be permitted to provide the signals of no more than two network stations in a single day for each television network to any household not located within the local markets of those network stations.

(B) Additional service

In addition to signals provided under subparagraph (A), any satellite carrier may also provide service under the statutory license of section 122 of title 17, to the local market within which such household is located. The service provided under section 122 of such title may be in addition to the two signals provided under section 119 of such title.

(2) Replacement of distant signals with local signals

Notwithstanding any other provision of paragraph (1), the following rules shall apply after December 8, 2004:

(A) Rules for grandfathered subscribers

(i) For those receiving distant signals

In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17 (in this subparagraph referred to as a ''distant signal''), and who, as of October 1, 2009, is receiving the distant signal of that network station, the following shall apply:

(I) In a case in which the satellite carrier makes available to the subscriber the signal of a local network station affiliated with the same television network pursuant to section 338 of this title, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber—

(aa) if, within 60 days after receiving the notice of the satellite carrier under

section 338(h)(1) of this title, the subscriber elects to retain the distant signal; but

(bb) only until such time as the subscriber elects to receive such local signal.

(II) Notwithstanding subclause (I), the carrier may not retransmit the distant signal to any subscriber who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17, unless such carrier, within 60 days after December 8, 2004, submits to that television network the list and statement required by subparagraph (F)(i).

(ii) For those not receiving distant signals

In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of section 119(e) of title 17 and who did not receive a distant signal of a station affiliated with the same network on October 1, 2009, the carrier may not provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber.

(B) Rules for other subscribers

(i) In general

In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a ''distant signal''), other than subscribers to whom subparagraph (A) applies, the following shall apply:

(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338 of this title, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338 of this title, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 of this title the signals of stations from the local market of such local network station; and

(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

(ii) Special circumstances

A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.

(C) Future applicability

A satellite carrier may not provide a distant signal (within the meaning of subparagraph (A) or (B)) to a person who—

(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 of this title (and the retransmission of such signal by such carrier can reach such subscriber); or

(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.

(D) Special rules for distant signals

(i) Eligibility and signal testing

A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a

low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17.

(ii) Pre-enactment distant signal subscribers

Any eligible subscriber under this subparagraph who is a lawful subscriber to such a distant signal as of the date of enactment of the Satellite Television Extension and Localism Act of 2010 may continue to receive such distant signal.

(iii) Time-shifting prohibited

In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338 of this title, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.

(iv) Savings provision

Nothing in this subparagraph shall be construed to affect a satellite carrier's obligations under section 338 of this title.

(E) Authority to grant station-specific waivers

This paragraph shall not prohibit a retransmission of a distant signal of any distant network station to any subscriber to whom the signal of a local network station affiliated with the same network is available, if and to the extent that such local network station has affirmatively granted a waiver from the requirements of this paragraph to such satellite carrier with respect to retransmission of such distant network station to such subscriber.

(F) Notices to networks of distant signal subscribers

(i) Within 60 days after December 8, 2004, each satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (A) or (B)(i) of this paragraph shall submit to each network—

(I) a list, aggregated by designated market area, identifying each subscriber provided such a signal by—

(aa) name;

(bb) address (street or rural route number, city, State, and zip code); and

(cc) the distant network signal or signals received; and

(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (A) or (B)(i) of this paragraph.

(ii) Within 60 days after the date a satellite carrier commences to carry pursuant to section 338 of this title the signals of stations from a local market, such a satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (B)(ii) of this paragraph shall submit to each network—

(I) a list identifying each subscriber in that local market provided such a signal by—

(aa) name;

(bb) address (street or rural route number, city, State, and zip code); and

(cc) the distant network signal or signals received; and

(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (B)(ii) of this paragraph.

(G) Other provisions not affected

This paragraph shall not affect the eligibility of a subscriber to receive secondary transmissions under section 340 of this title or as an unserved household included under section 119(a)(12)[1] of title 17.

(H) Available defined

For purposes of this paragraph, a satellite carrier makes available a local signal to a subscriber or person if the satellite carrier offers that local signal to other subscribers who reside in the same zip code as that subscriber or person.

(3) Penalty for violation

Any satellite carrier that knowingly and willfully provides the signals of television stations to subscribers in violation of this subsection shall be liable for a forfeiture penalty under section 503 of this title in the amount of $50,000 for each violation or each day of a continuing violation, except that paragraph (2)(D) of this subsection, relating to the provision of distant digital signals, shall be enforceable under the provisions of section 340(f) of this title.

(b) Extension of network nonduplication, syndicated exclusivity, and sports blackout to satellite retransmission

(1) Extension of protections

Within 45 days after November 29, 1999, the Commission shall commence a single rulemaking proceeding to establish regulations that—

(A) apply network nonduplication protection (47 CFR 76.92) syndicated exclusivity protection (47 CFR 76.151), and sports blackout protection (47 CFR 76.67) to the retransmission of the signals of nationally distrib-

[1] See References in Text note below.

uted superstations by satellite carriers to subscribers; and

(B) to the extent technically feasible and not economically prohibitive, apply sports blackout protection (47 CFR 76.67) to the retransmission of the signals of network stations by satellite carriers to subscribers.

(2) Deadline for action

The Commission shall complete all actions necessary to prescribe regulations required by this section so that the regulations shall become effective within 1 year after November 29, 1999.

(c) Eligibility for retransmission

(1) Study of digital strength testing procedures

(A) Study required

Not later than 1 year after December 8, 2004, the Federal Communications Commission shall complete an inquiry regarding whether, for purposes of identifying if a household is unserved by an adequate digital signal under section 119(d)(10) of title 17, the digital signal strength standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or the testing procedures in section 73.686(d) of title 47, Code of Federal Regulations, such statutes or regulations should be revised to take into account the types of antennas that are available to consumers.

(B) Study considerations

In conducting the study under this paragraph, the Commission shall consider whether—

(i) to account for the fact that an antenna can be mounted on a roof or placed in a home and can be fixed or capable of rotating;

(ii) section 73.686(d) of title 47, Code of Federal Regulations, should be amended to create different procedures for determining if the requisite digital signal strength is present than for determining if the requisite analog signal strength is present;

(iii) a standard should be used other than the presence of a signal of a certain strength to ensure that a household can receive a high-quality picture using antennas of reasonable cost and ease of installation;

(iv) to develop a predictive methodology for determining whether a household is unserved by an adequate digital signal under section 119(d)(10) of title 17;

(v) there is a wide variation in the ability of reasonably priced consumer digital television sets to receive over-the-air signals, such that at a given signal strength some may be able to display high-quality pictures while others cannot, whether such variation is related to the price of the television set, and whether such variation should be factored into setting a standard for determining whether a household is unserved by an adequate digital signal; and

(vi) to account for factors such as building loss, external interference sources, or undesired signals from both digital television and analog television stations using either the same or adjacent channels in nearby markets, foliage, and man-made clutter.

(C) Report

Not later than 1 year after December 8, 2004, the Federal Communications Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(i) the results of the study under this paragraph; and

(ii) recommendations, if any, as to what changes should be made to Federal statutes or regulations.

(2) Waivers

A subscriber who is denied the retransmission of a signal of a network station under section 119 of title 17 may request a waiver from such denial by submitting a request, through such subscriber's satellite carrier, to the network station asserting that the retransmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. The subscriber shall be permitted to receive such retransmission under section 119(d)(10)(B) of title 17, if such station agrees to the waiver request and files with the satellite carrier a written waiver with respect to that subscriber allowing the subscriber to receive such retransmission. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver.

(3) Establishment of improved predictive model and on-location testing required

(A) Predictive model

Within 270 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

(B) On-location testing

The Commission shall issue an order completing its rulemaking proceeding in ET

Docket No. 06–94 within 270 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.

(4) Objective verification

(A) In general

If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17.

(B) Designation of tester and allocation of costs

If the satellite carrier and the network station or stations asserting that the retransmission is prohibited are unable to agree on such a person to conduct the test, the person shall be designated by an independent and neutral entity designated by the Commission by rule. Unless the satellite carrier and the network station or stations otherwise agree, the costs of conducting the test under this paragraph shall be borne by the satellite carrier, if the station's signal meets or exceeds such requisite signal intensity standard, or by the network station, if its signal fails to meet or exceed such standard.

(C) Avoidance of undue burden

Commission regulations prescribed under this paragraph shall seek to avoid any undue burden on any party.

(D) Reduction of verification burdens

Within 1 year after December 8, 2004, the Commission shall by rule exempt from the verification requirements of subparagraph (A) any request for a test made by a subscriber to a satellite carrier to whom the retransmission of the signals of local broadcast stations is available under section 338 of this title from such carrier.

(E) Exception

A satellite carrier may refuse to engage in the testing process. If the carrier does so refuse, a subscriber in a local market in which the satellite carrier does not offer the signals of local broadcast stations under section 338 of this title may, at his or her own expense, authorize a signal intensity test to be performed pursuant to the procedures specified by the Commission in section 73.686(d) of title 47, Code of Federal Regulations, by a tester who is approved by the satellite carrier and by each affected network station, or who has been previously approved by the satellite carrier and by each affected network station but not previously disapproved. A tester may not be so disapproved for a test after the tester has commenced such test. The tester shall give 5 business days advance written notice to the satellite carrier and to the affected network station or stations. A signal intensity test conducted in accordance with this subparagraph shall be determinative of the signal strength received at that household for purposes of determining whether the household is capable of receiving a signal.

(5) Definition

Notwithstanding subsection (d)(4) of this section, for purposes of paragraphs (2) and (4) of this subsection, the term ''satellite carrier'' includes a distributor (as defined in section 119(d)(1) of title 17), but only if the satellite distributor's relationship with the subscriber includes billing, collection, service activation, and service deactivation.

(d) Definitions

For the purposes of this section:

(1) Local market

The term ''local market'' has the meaning given that term under section 122(j) of title 17.

(2) Nationally distributed superstation

The term ''nationally distributed superstation'' means a television broadcast station, licensed by the Commission, that—

(A) is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

(B) on May 1, 1991, was retransmitted by a satellite carrier and was not a network station at that time; and

(C) was, as of July 1, 1998, retransmitted by a satellite carrier under the statutory license of section 119 of title 17.

(3) Network station

The term ''network station'' has the meaning given such term under section 119(d) of title 17.

(4) Satellite carrier

The term ''satellite carrier'' has the meaning given such term under section 119(d) of title 17.

(5) Television network

The term ''television network'' means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

(June 19, 1934, ch. 652, title III, § 339, as added Pub. L. 106–113, div. B, § 1000(a)(9) [title I, § 1008(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–534; amended Pub. L. 106–553, § 1(a)(2) [title X, § 1008], Dec. 21, 2000, 114 Stat. 2762, 2762A–140; Pub. L. 108–447, div. J, title IX [title II, §§ 204, 209], Dec. 8, 2004, 118 Stat. 3416, 3429; Pub. L. 111–175, title II, § 204(b), May 27, 2010, 124 Stat. 1246.)

REFERENCES IN TEXT

The date of enactment of the Satellite Television Extension and Localism Act of 2010, referred to in subsecs. (a)(2)(B)(ii), (C), (D)(ii), and (c)(3), is the date of enactment of Pub. L. 111–175, which shall be deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights.

Section 119(a)(12) of title 17, referred to in subsec. (a)(2)(G), was redesignated as section 119(a)(11) of title 17 by Pub. L. 111–175, title I, § 102(h)(1)(B), May 27, 2010, 124 Stat. 1224.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–175, § 204(b)(1)(A), which directed amendment of subpar. (B) by striking out '' 'Such two network stations' and all that follows through 'more than two network stations.' '', was executed by striking out concluding provisions which read ''Such two network stations may be comprised of both the analog signal and digital signal of not more than two network stations.'', to reflect the probable intent of Congress.

Subsec. (a)(2)(A). Pub. L. 111–175, § 204(b)(1)(B)(i), struck out ''to analog signals'' after ''subscribers'' in heading.

Subsec. (a)(2)(A)(i). Pub. L. 111–175, § 204(b)(1)(B)(ii)(I), (II), struck out ''analog'' before ''signals'' in heading, substituted ''signal'' for ''analog signal'' wherever appearing, and, in introductory provisions, substituted ''October 1, 2009'' for ''October 1, 2004''.

Subsec. (a)(2)(A)(ii). Pub. L. 111–175, § 204(b)(1)(B)(ii)(III), (IV), struck out ''analog'' before ''signals'' in heading, substituted ''signal'' for ''analog signal'' wherever appearing in text, and substituted ''2009'' for ''2004''.

Subsec. (a)(2)(B). Pub. L. 111–175, § 204(b)(1)(B)(iii), amended subpar. (B) generally. Prior to amendment, subpar. (B) related to rules for other subscribers to analog signals.

Subsec. (a)(2)(C). Pub. L. 111–175, § 204(b)(1)(B)(iv)(I), which directed striking out ''analog'', was executed by striking out ''analog'' before ''signal'' in introductory provisions, to reflect the probable intent of Congress and the subsequent amendment of cl. (ii) by Pub. L. 111–175, § 204(b)(1)(B)(iv)(III). See below.

Subsec. (a)(2)(C)(i). Pub. L. 111–175, § 204(b)(1)(B)(iv)(II), substituted ''the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 of this title (and the retransmission of such signal by such carrier can reach such subscriber); or'' for ''December 8, 2004; and''.

Subsec. (a)(2)(C)(ii). Pub. L. 111–175, § 204(b)(1)(B)(iv)(III), amended cl. (ii) generally. Prior to amendment, text read as follows: ''at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the analog signal of a local network station affiliated with the same television network pursuant to section 338 of this title, and the retransmission of such signal by such carrier can reach such subscriber.''

Subsec. (a)(2)(D). Pub. L. 111–175, § 204(b)(1)(B)(v)(I), struck out ''digital'' before ''signals'' in heading.

Subsec. (a)(2)(D)(i). Pub. L. 111–175, § 204(b)(1)(B)(v)(IV), amended cl. (i) generally. Prior to amendment, cl. (i) related to signal testing for digital signals.

Pub. L. 111–175, § 204(b)(1)(B)(v)(II), (III), redesignated and reordered cl. (vi) as (i) and struck out former cl. (i) which related to eligibility.

Subsec. (a)(2)(D)(ii). Pub. L. 111–175, § 204(b)(1)(B)(v)(V), struck out ''digital'' before ''signal'' in heading and in two places in text, struck out '', whether or not such subscriber elects to subscribe to local digital signals'' before the period, and substituted ''Satellite Television Extension and Localism Act of 2010'' for ''Satellite Home Viewer Extension and Reauthorization Act of 2004''.

Subsec. (a)(2)(D)(iii). Pub. L. 111–175, § 204(b)(1)(B)(v)(II), (VI), added cl. (iii) and struck out former cl. (iii) which related to local-to-local analog markets.

Subsec. (a)(2)(D)(iv). Pub. L. 111–175, § 204(b)(1)(B)(v)(II), (VII), redesignated cl. (x) as (iv) and struck out former cl. (iv) which related to local-to-local digital markets.

Subsec. (a)(2)(D)(v). Pub. L. 111–175, § 204(b)(1)(B)(v)(II), struck out cl. (v) which related to non-local-to-local markets.

Subsec. (a)(2)(D)(vi). Pub. L. 111–175, § 204(b)(1)(B)(v)(III), redesignated cl. (vi) as (i).

Subsec. (a)(2)(D)(vii) to (ix). Pub. L. 111–175, § 204(b)(1)(B)(v)(II), struck out cls. (vii) to (ix) which related to trigger events for use of testing, testing waivers, and a special waiver provision for translators, respectively.

Subsec. (a)(2)(D)(x). Pub. L. 111–175, § 204(b)(1)(B)(v)(VII), redesignated cl. (x) as (iv).

Subsec. (a)(2)(D)(xi). Pub. L. 111–175, § 204(b)(1)(B)(v)(II), struck out cl. (xi) which defined ''emergency response providers''.

Subsec. (a)(2)(E). Pub. L. 111–175, § 204(b)(1)(B)(vi), substituted ''distant signal'' for ''distant analog signal or distant digital signal (within the meaning of subparagraph (A), (B), or (D))''.

Subsec. (c)(3). Pub. L. 111–175, § 204(b)(2)(A), amended par. (3) generally. Prior to amendment, text read as follows: ''Within 180 days after November 29, 1999, the Commission shall take all actions necessary, including any reconsideration, to develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations to receive signals in accordance with the signal intensity standard in effect under section 119(d)(10)(A) of title 17. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket No. 98–201 and ensure that such model takes into account terrain, building structures, and other land cover variations. The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.''

Subsec. (c)(4)(A). Pub. L. 111–175, § 204(b)(2)(B), amended subpar. (A) generally. Prior to amendment, text read as follows: ''If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal that meets the signal intensity standard in effect under section 119(d)(10)(A) of title 17, the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct a test in accordance with section 73.686(d) of its regulations (47 CFR 73.686(d)), or any successor regulation. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such section (or any successor regulation) demonstrate that the subscriber does not receive a signal that meets or exceeds the signal intensity standard in effect under section 119(d)(10)(A) of

title 17, the subscriber shall not be denied the retransmission of a signal of a network station under section 119 of title 17.''

Subsec. (c)(4)(B). Pub. L. 111–175, § 204(b)(2)(C), substituted ''such requisite signal intensity standard'' for ''the signal intensity standard in effect under section 119(d)(10)(A) of title 17''.

Subsec. (c)(4)(E). Pub. L. 111–175, § 204(b)(2)(D), struck out ''Grade B intensity'' before ''signal.''

2004—Subsec. (a)(1). Pub. L. 108–447, § 204(a)(1), inserted at end ''Such two network stations may be comprised of both the analog signal and digital signal of not more than two network stations.''

Subsec. (a)(2). Pub. L. 108–447, § 204(a)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 108–447, § 204(a)(4), which directed amendment of par. (3) by inserting '', except that paragraph (2)(D) of this subsection, relating to the provision of distant digital signals, shall be enforceable under the provisions of section 340(f) of this title'' at end, was executed by making the insertion before period at end, to reflect the probable intent of Congress.

Pub. L. 108–447, § 204(a)(2), redesignated par. (2) as (3).

Subsec. (c)(1). Pub. L. 108–447, § 204(b), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''For the purposes of identifying an unserved household under section 119(d)(10) of title 17, within 1 year after November 29, 1999, the Commission shall conclude an inquiry to evaluate all possible standards and factors for determining eligibility for retransmissions of the signals of network stations, and, if appropriate—

''(A) recommend modifications to the Grade B intensity standard for analog signals set forth in section 73.683(a) of its regulations (47 CFR 73.683(a)), or recommend alternative standards or factors for purposes of determining such eligibility; and

''(B) make a further recommendation relating to an appropriate standard for digital signals.''

Subsec. (c)(4)(D), (E). Pub. L. 108–447, § 209, added subpars. (D) and (E).

2000—Subsec. (c)(5). Pub. L. 106–553 added par. (5).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as a note under section 111 of Title 17, Copyrights.

§ 340. Significantly viewed signals permitted to be carried

(a) Significantly viewed stations

In addition to the broadcast signals that subscribers may receive under section[1] 338 and 339 of this title, a satellite carrier is also authorized to retransmit to a subscriber located in a community the signal of any station located outside the local market in which such subscriber is located, to the extent such signal—

(1) has, before December 8, 2004, been determined by the Federal Communications Commission to be a signal a cable operator may carry as significantly viewed in such community, except to the extent that such signal is prevented from being carried by a cable system in such community under the Commission's network nonduplication and syndicated exclusivity rules; or

(2) is, after December 8, 2004, determined by the Commission to be significantly viewed in such community in accordance with the same standards and procedures concerning shares of viewing hours and audience surveys as are applicable under the rules, regulations, and authorizations of the Commission to determining with respect to a cable system whether signals are significantly viewed in a community.

(b) Limitations

(1) Service limited to subscribers taking local-into-local service

This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338 of this title.

(2) Service limitations

A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.

(3) Limitation not applicable where no network affiliates

The limitations in paragraphs (1) and (2) shall not prohibit a retransmission under this section to a subscriber located in a local market in which there are no network stations affiliated with the same television network as the station whose signal is being retransmitted pursuant to this section.

(4) Authority to grant station-specific waivers

Paragraphs (1) and (2) shall not prohibit a retransmission of a network station to a subscriber if and to the extent that the network station in the local market in which the subscriber is located, and that is affiliated with the same television network, has privately negotiated and affirmatively granted a waiver from the requirements of paragraph[2] (1) and (2) to such satellite carrier with respect to retransmission of the significantly viewed station to such subscriber.

(c) Publication and modifications of lists; regulations

(1) In general

The Commission shall—

(A) within 60 days after December 8, 2004—

(i) publish a list of the stations that are eligible for retransmission under subsection (a)(1) of this section and the communities in which such stations are eligible for such retransmission; and

(ii) commence a rulemaking proceeding to implement this section by publication of a notice of proposed rulemaking;

(B) adopt rules pursuant to such rulemaking within 1 year after December 8, 2004.

(2) Public availability of list

The Commission shall make readily available to the public in electronic form, on the Internet website of the Commission or other comparable facility, a list of the stations that are eligible for retransmission under sub-

[1] So in original. Probably should be ''sections''.

[2] So in original. Probably should be ''paragraphs''.

section (a) of this section and the communities in which such stations are eligible for such retransmission. The Commission shall update such list within 10 business days after the date on which the Commission issues an order making any modification of such stations and communities.

(3) Modifications

In addition to cable operators and television broadcast station licensees, the Commission shall permit a satellite carrier to petition for decisions and orders—

(A) by which stations may be added to those that are eligible for retransmission under subsection (a) of this section, and by which communities may be added in which such stations are eligible for such retransmission; and

(B) by which network nonduplication or syndicated exclusivity regulations are applied to the retransmission in accordance with subsection (e) of this section.

(d) Effect on other obligations and rights

(1) No effect on carriage obligations

Carriage of a signal under this section is not mandatory, and any right of a station licensee to have the signal of such station carried under section 338 of this title is not affected by the eligibility of such station to be carried under this section.

(2) Retransmission consent rights not affected

The eligibility of the signal of a station to be carried under this section does not affect any right of the licensee of such station to grant (or withhold) retransmission consent under section 325(b)(1) of this title.

(e) Network nonduplication and syndicated exclusivity

(1) Not applicable except as provided by commission regulations

Signals eligible to be carried under this section are not subject to the Commission's regulations concerning network nonduplication or syndicated exclusivity unless, pursuant to regulations adopted by the Commission, the Commission determines to permit network nonduplication or syndicated exclusivity to apply within the appropriate zone of protection.

(2) Limitation

Nothing in this subsection or Commission regulations shall permit the application of network nonduplication or syndicated exclusivity regulations to the retransmission of distant signals of network stations that are carried by a satellite carrier pursuant to a statutory license under section 119(a)(2)(A) or (B) of title 17, with respect to persons who reside in unserved households, under[3] 119(a)(4)(A),[4] or under section 119(a)(12),[4] of such title.

(f) Enforcement

(1) Orders and damages

Upon complaint, the Commission shall issue a cease and desist order to any satellite carrier found to have violated this section in carrying any television broadcast station. Such order may, if a complaining station requests damages—

(A) provide for the award of damages to a complaining station that establishes that the violation was committed in bad faith, in an amount up to $50 per subscriber, per station, per day of the violation; and

(B) provide for the award of damages to a prevailing satellite carrier if the Commission determines that the complaint was frivolous, in an amount up to $50 per subscriber alleged to be in violation, per station alleged, per day of the alleged violation.

(2) Commission decision

The Commission shall issue a final determination resolving a complaint brought under this subsection not later than 180 days after the submission of a complaint under this subsection. The Commission may hear witnesses if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.

(3) Remedies in addition

The remedies under this subsection are in addition to any remedies available under title 17.

(4) No effect on copyright proceedings

Any determination, action, or failure to act of the Commission under this subsection shall have no effect on any proceeding under title 17 and shall not be introduced in evidence in any proceeding under that title. In no instance shall a Commission enforcement proceeding under this subsection be required as a predicate to the pursuit of a remedy available under title 17.

(g) Notices concerning significantly viewed stations

Each satellite carrier that proposes to commence the retransmission of a station pursuant to this section in any local market shall—

(1) not less than 60 days before commencing such retransmission, provide a written notice to any television broadcast station in such local market of such proposal; and

(2) designate on such carrier's website all significantly viewed signals carried pursuant to section 340 of this title and the communities in which the signals are carried.

(h) Additional corresponding changes in regulations

(1) Community-by-community elections

The Commission shall, no later than October 30, 2005, revise section 76.66 of its regulations (47 CFR 76.66), concerning satellite broadcast signal carriage, to permit (at the next cycle of elections under section 325 of this title) a television broadcast station that is located in a local market into which a satellite carrier retransmits a television broadcast station pursuant to section 338 of this title, to elect, with respect to such satellite carrier, between re-

[3] So in original. Probably should be followed by ''section''.

[4] See References in Text note below.

transmission consent pursuant to such section 325 of this title and mandatory carriage pursuant to section 338 of this title separately for each county within such station's local market, if—

(A) the satellite carrier has notified the station, pursuant to paragraph (3), that it intends to carry another affiliate of the same network pursuant to this section during the relevant election period in the station's local market; or

(B) on the date notification under paragraph (3) was due, the satellite carrier was retransmitting into the station's local market pursuant to this section an affiliate of the same television network.

(2) Unified negotiations

In revising its regulations as required by paragraph (1), the Commission shall provide that any such station shall conduct a unified negotiation for the entire portion of its local market for which retransmission consent is elected.

(3) Additional provisions

The Commission shall, no later than October 30, 2005, revise its regulations to provide the following:

(A) Notifications by satellite carrier

A satellite carrier's retransmission of television broadcast stations pursuant to this section shall be subject to the following limitations:

(i) In any local market in which the satellite carrier provides service pursuant to section 338 of this title on December 8, 2004, the carrier may notify a television broadcast station in that market, at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of—

(I) each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market pursuant to this section during the next election cycle under such section of such regulations; and

(II) for each such affiliate, the communities into which the satellite carrier reserves the right to make such retransmissions.

(ii) In any local market in which the satellite carrier commences service pursuant to section 338 of this title after December 8, 2004, the carrier may notify a station in that market, at least 60 days prior to the introduction of such service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle under such section of such regulations.

(iii) Beginning with the 2005 election cycle, a satellite carrier may only retransmit pursuant to this section during the pertinent election period a signal—

(I) as to which it has provided the notifications set forth in clauses (i) and (ii); or

(II) that it was retransmitting into the local market under this section as of the date such notifications were due.

(B) Harmonization of elections and retransmission consent agreements

If a satellite carrier notifies a television broadcast station that it reserves the right to retransmit an affiliate of the same television network during the next election cycle pursuant to this section, the station may choose between retransmission consent and mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

(i) Definitions

As used in this section:

(1) Local market; satellite carrier; subscriber; television broadcast station

The terms ''local market'', ''satellite carrier'', ''subscriber'', and ''television broadcast station'' have the meanings given such terms in section 338(k) of this title.

(2) Network station; television network

The terms ''network station'' and ''television network'' have the meanings given such terms in section 339(d) of this title.

(3) Community

The term ''community'' means—

(A) a county or a cable community, as determined under the rules, regulations, and authorizations of the Commission applicable to determining with respect to a cable system whether signals are significantly viewed; or

(B) a satellite community, as determined under such rules, regulations, and authorizations (or revisions thereof) as the Commission may prescribe in implementing the requirements of this section.

(June 19, 1934, ch. 652, title III, § 340, as added Pub. L. 108–447, div. J, title IX [title II, § 202(a)], Dec. 8, 2004, 118 Stat. 3409; amended Pub. L. 111–175, title II, §§ 203(a), 204(c), May 27, 2010, 124 Stat. 1245, 1250.)

REFERENCES IN TEXT

Section 119(a)(4)(A) and section 119(a)(12) of title 17, referred to in subsec. (e)(2), were redesignated as sections 119(a)(3)(A) and 119(a)(11) of title 17, respectively, by Pub. L. 111–175, title I, § 102(h)(1)(B), May 27, 2010, 124 Stat. 1224.

AMENDMENTS

2010—Subsec. (b)(1), (2). Pub. L. 111–175, § 203(a), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) related to limitations for certain analog and digital services, respectively.

Subsec. (i)(4). Pub. L. 111–175, § 204(c), struck out par. (4). Text read as follows: ''The terms 'equivalent bandwidth' and 'entire bandwidth' shall be defined by the Commission by regulation, except that this paragraph shall not be construed—

''(A) to prevent a satellite operator from using compression technology;

''(B) to require a satellite operator to use the identical bandwidth or bit rate as the local or distant broadcaster whose signal it is retransmitting;

''(C) to require a satellite operator to use the identical bandwidth or bit rate for a local network station as it does for a distant network station;

''(D) to affect a satellite operator's obligations under subsection (a)(1) of this section; or

''(E) to affect the definitions of 'program related' and 'primary video'.''

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as a note under section 111 of Title 17, Copyrights.

RULEMAKING REQUIRED

Pub. L. 111–175, title II, § 203(b), May 27, 2010, 124 Stat. 1245, provided that: ''Within 270 days after the date of the enactment of this Act [deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights], the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a) [amending this section].''

§ 341. Carriage of television signals to certain subscribers

(a)(1) IN GENERAL.—A cable operator or satellite carrier may elect to retransmit, to subscribers in an eligible county—

(A) any television broadcast stations that are located in the State in which the county is located and that any cable operator or satellite carrier was retransmitting to subscribers in the county on January 1, 2004; or

(B) up to 2 television broadcast stations located in the State in which the county is located, if the number of television broadcast stations that the cable operator or satellite carrier is authorized to carry under paragraph (1) is less than 3.

(2) DEEMED SIGNIFICANTLY VIEWED.—A station described in subsection (a) of this section is deemed to be significantly viewed in the eligible county within the meaning of section 76.54 of the Commission's regulations (47 CFR 76.54).

(3) DEFINITION OF ELIGIBLE COUNTY.—For purposes of this section, the term ''eligible county'' means any 1 of 4 counties that—

(A) are all in a single State;

(B) on January 1, 2004, were each in designated market areas in which the majority of counties were located in another State or States; and

(C) as a group had a combined total of 41,340 television households according to the U.S. Television Household Estimates by Nielsen Media Research for 2003–2004.

(4) LIMITATION.—Carriage of a station under this section shall be at the option of the cable operator or satellite carrier.

(b) CERTAIN MARKETS.—Notwithstanding any other provision of law, a satellite carrier may not carry the signal of a television station into an adjacent local market that is comprised of only a portion of a county, other than to unserved households located in that county.

(June 19, 1934, ch. 652, title III, § 341, as added Pub. L. 108–447, div. J, title IX [title II, § 211], Dec. 8, 2004, 118 Stat. 3430.)

§ 342. Process for issuing qualified carrier certification

(a) Certification

The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17 if the Commission determines that—

(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

(b) Information required

Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17 and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

(2) For each designated market area not listed in paragraph (1):

(A) Identification of each such designated market area and the location of its local receive facility.

(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's pre-launch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or

sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

(c) Certification issuance

(1) Public comment

The Commission shall provide 30 days for public comment on a request for certification under this section.

(2) Deadline for decision

The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

(d) Subsequent affirmation

An entity granted qualified carrier status pursuant to section 119(g) of title 17 shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

(e) Definitions

For the purposes of this section:

(1) Designated market area

The term ''designated market area'' has the meaning given such term in section 122(j)(2)(C) of title 17.

(2) Good quality satellite signal

(A) In general

The term ''good quality satellite signal'' means—

(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

(I) models of satellite antennas normally used by the satellite carrier's subscribers; and

(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

(I) the satellite carrier treats all television broadcast stations' signals the same with respect to statistical multiplexer prioritization; and

(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

(B) Determination

For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier's application for certification under this section.

(June 19, 1934, ch. 652, title III, § 342, as added Pub. L. 111–175, title II, § 206, May 27, 2010, 124 Stat. 1250.)

REFERENCES IN TEXT

The date of enactment of the Satellite Television Extension and Localism Act of 2010, referred to in subsecs. (a)(2) and (b)(1), is the date of enactment of Pub. L. 111–175, which shall be deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights.

EFFECTIVE DATE

Section effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights.

PART II—RADIO EQUIPMENT AND RADIO OPERATORS ON BOARD SHIP

§ 351. Ship radio stations and operations

(a) Except as provided in section 352 hereof it shall be unlawful—

(1) For any ship of the United States, other than a cargo ship of less than three hundred gross tons, to be navigated in the open sea outside of a harbor or port, or for any ship of the United States or any foreign country, other than a cargo ship of less than three hundred gross tons, to leave or attempt to leave any harbor or port of the United States for a voyage in the open sea, unless such ship is equipped with an efficient radio station in operating condition, as specified by subparagraphs (A) and (B) of this paragraph, in charge of and operated by one or more radio officers or operators, adequately installed and protected so as to insure proper operation, and so as not to endanger the ship and radio station as hereinafter provided, and, in the case of a ship of the United States, unless there is on board a valid station license issued in accordance with this chapter.

(A) Passenger ships irrespective of size and cargo ships of one thousand six hundred gross tons and upward shall be equipped with a radio-telegraph station complying with the provisions of this part;

(B) Cargo ships of three hundred gross tons and upward but less than one thousand six hundred gross tons, unless equipped with a radio-telegraph station complying with the provisions of this part, shall be equipped